

CRAVATH, SWAINE & MOORE RECORDATION NO. 10850 Filed 1425

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NEW YORK, N.Y. 10005

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INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

September 28, 1979

Illinois Terminal Railroad Company
Lease Financing Dated as of August 20, 1979
10.50% Conditional Sale Indebtedness Due 1994

Dear Mrs. Mergenovich:

Pursuant to 49 U.S.C. § 11303(a) and the Commission's rules and regulations thereunder, I enclose herewith on behalf of Illinois Terminal Railroad Company, for filing and recordation, counterparts of the following documents:

1(a) Conditional Sale Agreement dated as of August 20, 1979, between First Security State Bank and Pullman Incorporated (Pullman Standard Division).

(b) Agreement and Assignment dated as of August 20, 1979, between Pullman Incorporated (Pullman Standard Division) and First Security Bank of Utah, N.A., as Agent; and

2(a) Lease of Railroad Equipment dated as of August 20, 1979, between Illinois Terminal Railroad Company and First Security State Bank,

(b) Assignment of Lease and Agreement dated as of August 20, 1979, between First Security State Bank and First Security Bank of Utah, N.A., as Agent.

Counterpart

Leon

Pensky

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FEE OFFICE

The names and addresses of the parties to the
aforementioned Agreements are as follows:

(1) Assignee-Agent-Vendor:

First Security Bank of Utah, N.A.
79 South Main Street
Salt Lake City, Utah 84111

(2) Vendee-Lessor-Owner-Trustee:

First Security State Bank,
79 South Main Street
Salt Lake City, Utah 84111

(3) Builder-Vendor:

Pullman Incorporated
(Pullman Standard Division)
200 South Michigan Avenue
Chicago, Illinois 60604.

(4) Lessee:

Illinois Terminal Railroad Company
710 North Twelfth Boulevard,
St. Louis, Missouri 63177.

Please file and record the documents referred to
in this letter and cross-index them under the names of the
Assignee-Agent-Vendor, the Vendee-Lessor-Owner-Trustee, the
Builder-Vendor and the Lessee.

The equipment covered by the aforementioned docu-
ments consists of the following:

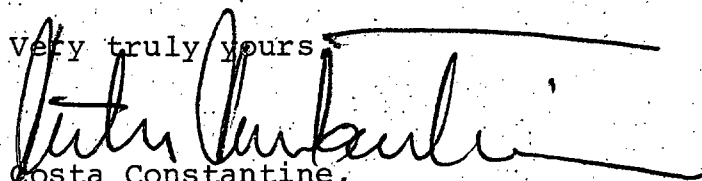
200 50'6" 70-ton Class XM Boxcars, bearing identi-
fying numbers of the Lessee, ITC 8000-8199, both inclusive.

There is also enclosed a check for \$100, payable
to the Interstate Commerce Commission, representing the fee

for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document) and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,



Costa Constantine,
As Agent for Illinois Terminal
Railroad Company

Agatha L. Mergenovich, Esq.,
Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423.

Encls.

TT

Interstate Commerce Commission
Washington, D.C. 20423

9/28/79

OFFICE OF THE SECRETARY

Costa Constantine
Cravath, Swaine & Moore
One Chase Manhattan Plaza
New York, N.Y. 10005

Dear
Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on at , and assigned re-
recording number(s). 9/28/79 2:10pm

10850, 10850-A, 10850-B & 10850-C
Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. 10850 Filed 1425

SEP 28 1979 - 2 10 PM

INTERSTATE COMMERCE COMMISSION

[CS&M 5237-009]

CONDITIONAL SALE AGREEMENT

Dated as of August 20, 1979

between

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely as Owner-Trustee
for Ingersoll-Rand Financial Corporation

and

PULLMAN INCORPORATED (Pullman Standard Division)

CONDITIONAL SALE AGREEMENT dated as of August 20, 1979, between PULLMAN INCORPORATED (Pullman Standard Division) (the "Builder" or the "Vendor", as the context may require, as more particularly set forth in Article 1 hereof), and FIRST SECURITY STATE BANK, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the "Owner-Trustee") under a Trust Agreement dated as of the date hereof (the "Trust Agreement"), with Ingersoll-Rand Financial Corporation (the "Owner").

The Builder agrees to construct, sell and deliver to the Owner-Trustee, and the Owner-Trustee agrees to purchase, the railroad equipment described in Annex B hereto (the "Equipment") subject to the terms and conditions hereof.

The Owner-Trustee is entering into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") with Illinois Terminal Railroad Company (together with its successors and assigns hereinafter called the "Lessee"), in substantially the form annexed as Annex C hereto.

The Builder proposes to assign its interest herein to First Security Bank of Utah, N.A. (the "Assignee" or the "Vendor"), acting as agent for certain investors (the "Investors") pursuant to the Participation Agreement dated as of the date hereof (the "Participation Agreement") with the Owner-Trustee, the Lessee, the Owner, the Lessee and the Investors.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Owner-Trustee will furnish that portion of the Purchase Price (as defined in Article 4 hereof) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof (the "Assignment") between the Builder and the Assignee, as agent.

The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

In case of such assignment, the Owner-Trustee will assign to the Vendor, as security for the payment and performance of all the Owner-Trustee's obligations hereunder, all right, title and interest of the Owner-Trustee in and to the Lease, pursuant to an Assignment of Lease substantially in the form of Annex D hereto (the "Lease Assignment") and the Lessee shall consent thereto pursuant to a Consent and Agreement in substantially the form attached to Annex D hereto (the "Consent").

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the Equipment at its plant or plants set forth in Annex B hereto, and will sell and deliver to the Owner-Trustee, and the Owner-Trustee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), such Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing among the Builder, the Owner-Trustee and the Lessee (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as then being applicable to each such unit of Equipment, and each such unit will be new railroad equipment (and no used components will be included therein) when delivered to the Owner-Trustee and the original use thereof shall commence with the Owner-Trustee.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Owner-Trustee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Owner-Trustee), freight, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until the filings referred to in Article 18 hereof have been made; and provided, further, that the Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clause (c) or (d) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or any event which with notice or lapse of time or both would constitute such an event of default. The Builder agrees not to deliver any unit of Equipment hereunder (a) following receipt of written notice from the Owner-Trustee or the Assignee of the commencement of any such proceedings or the occurrence of any such event of default or event, as aforesaid, and (b) until it receives notice from the Assignee and the Owner-Trustee, respectively, that the conditions contained in Paragraphs 7 and 8, respectively, of the Participation Agreement have been met.

Notwithstanding the next succeeding paragraph, any Equipment not delivered as a result of the first paragraph of this Article 3, and any Equipment not delivered and accepted hereunder on or prior to December 31, 1979, shall be excluded from this Agreement; and the Owner-Trustee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom.

The Builder's obligation as to the time of delivery set forth in Annex B is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of

the Owner-Trustee (who may be employees of the Lessee) and the Builder shall grant to such authorized inspectors reasonable access to its plant or plants. The Builder will inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Owner-Trustee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Owner-Trustee (who may be an employee of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Owner-Trustee and are marked in accordance with Article 9 hereof; provided, however, that the Builder shall not thereby be relieved of its warranties contained or referred to in Article 13 hereof.

Upon delivery of a Certificate of Acceptance with respect to each such unit of Equipment, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranties contained or referred to in Article 13 hereof.

Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the delivery to and acceptance by or on behalf of the Owner-Trustee of any unit of Equipment excluded from this Agreement pursuant to the second paragraph of Article 3 hereof or the first paragraph of Article 4 hereof shall be ineffective, ab initio, to create in or transfer to the Owner-Trustee any legal or beneficial right or interest in such unit or (except as provided in the first paragraph of Article 4 hereof) to impose on the Owner-Trustee any liability, obligation or responsibility with respect thereto.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the Owner-Trustee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in such Builder's invoice or invoices delivered to the Owner-Trustee (which shall include any applicable freight charges) and, if the Purchase

Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Owner-Trustee (such invoice or invoices being hereinafter called the "Invoices"). If on any Closing Date (as hereinafter defined in this Article 4) the aggregate Purchase Price of Equipment for which settlement is then being made would exceed the Maximum Purchase Price specified in Item 4 of Annex A hereto, the Builder (and any assignee of the Builder) and the Owner-Trustee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Owner-Trustee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 4 of Annex A hereto and the Owner-Trustee shall take such other steps, including the execution of instruments of transfer, as may be reasonably requested by the Builder for the purpose of acknowledging and perfecting the interest of the Builder in any unit of Equipment so excluded from this Agreement, and the Owner-Trustee shall have no further obligation or liability in respect of units so excluded.

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Owner-Trustee as is provided in Item 2 of Annex A hereto (each such group being hereinafter sometimes called a Group). The term "Closing Date" with respect to any Group shall mean the date (not later than January 20, 1980) occurring not more than 10 business days following presentation by the Builder to the Owner-Trustee of the Invoices and the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Owner-Trustee, the Builder and the Assignee at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Salt Lake City, Utah, are authorized or obligated to remain closed.

The Owner-Trustee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

- (a) on the Closing Date an amount equal to 29.42% of the aggregate Purchase Price of such Group; and

(b) in 30 equal semiannual installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (the "CSA Indebtedness") shall be payable on each March 28 and September 28, commencing March 28, 1980, to and including September 28, 1994 (or if any such date is not a business day, on the next succeeding business day; provided, however, that no interest shall be payable on the amount to be paid on such date for the period from and after such nominal date for payment thereof to such next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 10.50% per annum. Such interest shall be payable, to the extent accrued, on March 28, 1980, and on each Payment Date thereafter. The installments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto, and the aggregate of such installments of principal will completely amortize the remaining CSA Indebtedness by September 28, 1994. The Owner-Trustee will furnish to the Vendor and the Lessee promptly after the Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months, except that interest payable on March 28, 1980, shall be computed on an actual elapsed day basis of a 365-day year.

The Owner-Trustee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms of this Agreement at the rate of 11.50% per annum.

All payments provided for in this Agreement shall be made in immediately available funds in such coin or currency of the United States of America as at the time of

payment shall be legal tender for the payment of public and private debts. Except as provided in Articles 7 and 15 hereof, the Owner-Trustee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

The obligation of the Owner-Trustee to make payment to the Builder is subject to the furnishing by the Builder to the Owner-Trustee of the documents required to be furnished by the Builder pursuant to Section 4 of the Assignment in respect of such Group.

Notwithstanding any other provisions of this Agreement, including, without limitation, Articles 15 and 16 hereof, it is understood and agreed by the Vendor that the liability of the Owner-Trustee for all payments to be made by it under and pursuant to this Agreement and for all performance obligations (other than the payments called for by subparagraph (a) of the third paragraph of this Article and as provided in the proviso to the last paragraph of Article 12 hereof), shall not exceed an amount equal to, and shall be payable only out of, the income and proceeds from the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean

(i) if an event of default shall have occurred under Article 15 hereof and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Owner-Trustee (or any assignee of the Owner-Trustee) at any time after any event of default and during the continuance thereof: (a) all amounts of rental and all amounts in respect of Casualty Occurrences payable pursuant to the Lease, and (b) any and all other payments or proceeds so received pursuant to the Lease, or for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and

(ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) or otherwise payable to the Owner-Trustee pursuant to the Lease or otherwise in respect of the Equipment as are indefeasibly received by the Owner-Trustee or any assignee of the Owner-Trustee and as shall equal the portion of the CSA Indebtedness and/or interest thereon due and

payable by the Owner-Trustee on the date such amounts so received were required to be paid pursuant to the Lease or as shall equal any other payments (including payments in respect of Casualty Occurrences as defined in Article 7 hereof) then due and payable under this Agreement;

it being understood that "income and proceeds from the Equipment" shall in no event include (x) payments by the Lessee to the Owner-Trustee or the Owner pursuant to § 6, 9 or 23 of the Lease (except to the extent and in the event any of such payments discharges a corresponding obligation of the Owner-Trustee to the Vendor under Articles 6 and 13 hereof) or (y) amounts referred to in the foregoing clauses (a) and (b) which were received by the Owner-Trustee or any assignee of the Owner-Trustee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness and/or interest thereon due and payable by the Owner-Trustee on the date on which amounts with respect thereto received by the Owner-Trustee or any assignee of the Owner-Trustee were required to be paid pursuant to the Lease or which exceeded any other payments including payments in respect of Casualty Occurrences due and payable under this Agreement at the time such amounts were payable under the Lease. The Vendor agrees that if it obtains a judgment against the Owner-Trustee for an amount in excess of the amounts payable by the Owner-Trustee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount and it will not bring suit against the Owner-Trustee for any sums in addition to the amounts payable by the Owner-Trustee pursuant to said limitations (or obtain a judgment, order or decree against the Owner-Trustee for any relief other than the payment of money) except as may be required by applicable rules of procedure to enforce against the Equipment and the Lease, rather than against the Owner-Trustee personally, by appropriate proceedings against the Owner-Trustee at law or in equity or otherwise, the obligation to make the payments to be made pursuant to this Agreement or any other payments or performance obligations due to the Vendor under this Agreement. Nothing contained herein limiting the liability of the Owner-Trustee shall derogate from the right of the Vendor to proceed against the Lessee, the Equipment or the Lease or the Consent for the full unpaid Purchase Price of the Equipment and interest thereon and any and all other payments and obligations under this Agreement.

ARTICLE 5. Security Interest in the Equipment.

The Vendor shall and hereby does retain a security interest in the Equipment until the Owner-Trustee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Owner-Trustee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Owner-Trustee and the Lessee; it being understood that, subject thereto, ownership of the Equipment (upon delivery and acceptance thereof) shall pass to and remain in the Owner-Trustee. Accordingly, after such time as all payments due or to become due hereunder shall have been completed and fully made to or for the account of the Vendor, and the Owner-Trustee shall have performed all its other obligations hereunder (without regard to the provisions of the last paragraph of Article 4 hereof or Article 21 hereof), (a) such payments shall be deemed to represent the discharge in full of the Vendor's security interest in the Equipment at such time, (b) any moneys remaining in the hands of the Vendor after providing for all outstanding amounts due and payable hereunder and as provided in the first paragraph of Paragraph 10 of the Participation Agreement shall be paid to the Owner-Trustee, and (c) the Vendor shall execute for recording in public offices such instrument or instruments in writing as reasonably shall be requested by the Owner-Trustee or the Lessee in order to discharge of record the security interest of the Vendor in, and to make clear upon public records the Owner-Trustee's full title to, such units of the Equipment under the laws of any jurisdiction; provided, however, that until that time a security interest in the Equipment shall be and remain in the Vendor, notwithstanding the possession and use thereof by the Owner-Trustee or the Lessee.

The Owner-Trustee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificates within a reasonable time after written demand by the Owner-Trustee.

The term "Equipment" as used in this Agreement shall not include any special devices or assemblies at any time attached or affixed to any unit of Equipment, the cost or purchase price of which is not included in the Purchase Price of the Equipment and the title to which is in a person other

than the Owner-Trustee unless the same cannot be removed without causing damage to any unit.

ARTICLE 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Owner-Trustee agrees to pay, or cause to be paid and on written demand to indemnify and hold the Vendor, the Builder, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under this Agreement and the Participation Agreement harmless from, all Taxes as defined in § 6 of the Lease; excluding, however: (i) Taxes of the United States of America or of any state or local government or governmental subdivision or authority thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits, or taxes computed as a percentage of income tax liabilities, of the Vendor, the Builder or the Investors, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement; provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed on or measured by any agency or trustee's fees received by the Vendor; and (iii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Vendor or any transfer or disposition of this Agreement resulting from bankruptcy or other proceedings for the relief of creditors whether voluntary or involuntary in which the Vendor is debtor; provided, however, that the Owner-Trustee shall not be required to pay any Taxes during the period the Owner-Trustee or any indemnified party may be contesting the same in the manner provided in the third paragraph of this Article 6.

The amount which the Owner-Trustee shall be required to pay with respect to any Taxes indemnified against pursuant to this Article 6 shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

If claim is made against any indemnified party for any Taxes indemnified against under this Article 6, such

party shall promptly notify the Owner-Trustee and the Lessee. If reasonably requested by the Owner-Trustee in writing, such indemnified party shall, upon receipt of any indemnity satisfactory to it for all costs, expenses, losses, reasonable legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Owner-Trustee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Owner-Trustee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent cannot be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Owner-Trustee in connection with any such contest or an amount representing interest thereon, such indemnified party shall pay the Owner-Trustee the amount of such refund or interest net of expenses; provided, however, that such payment shall not be made if an event of default set forth in Article 15 hereof or event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Owner-Trustee under this Article 6 or arising out of this Article 6, the Owner-Trustee shall either make such report or return in such manner as will show the interest of the Vendor in the Equipment or shall promptly notify the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Vendor. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Owner-Trustee.

All the obligations of the Owner-Trustee under this Article 6 shall survive and continue, notwithstanding payment

in full of all amounts due under this Agreement, but only with respect to periods included in the term of this Agreement. Payments due from the Owner-Trustee under this Article 6 shall be made directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority.

The obligations of the Owner-Trustee under this Article 6 are subject to the limitations contained in the last paragraph of Article 4 hereof and in Article 21 hereof.

The Owner-Trustee shall furnish or cause to be furnished promptly, upon request, such information and data as are normally available to the Owner-Trustee and which the Vendor reasonably may require to permit compliance with the requirements of any taxing authorities.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Owner-Trustee shall, at its own cost and expense, maintain and keep each unit of the Equipment (including any parts installed on or replacements made to any unit and considered an Addition thereto as provided in § 9 of the Lease) in good operating order, repair and condition, ordinary wear and tear excepted.

In the event that any unit of the Equipment shall suffer a Casualty Occurrence (as defined in § 7 of the Lease) during the term of this Agreement, the Owner-Trustee shall, promptly after it shall have received notice from the Lessee thereof or otherwise been notified that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the Casualty Payment Date (as defined in § 7 of the Lease) next succeeding such notice or notification, the Owner-Trustee shall, subject to the limitations contained in the last paragraph of Article 4 hereof, pay to the Vendor an amount equal to the Casualty Value, as hereinafter defined, of such unit suffering a Casualty Occurrence as of such Casualty Payment Date. On such Casualty Payment Date, the Owner-Trustee shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit and the method of determination thereof. In the event of the requisition for use by the United States Government of any unit of Equipment, unless such requisition shall at the time of such requisition be scheduled to extend beyond the then remaining term of this

Agreement, all the Owner-Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

Upon payment by the Owner-Trustee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, the security interest of the Vendor in such unit shall terminate without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Owner-Trustee, will execute and deliver, to the Owner-Trustee, at the expense of the Owner-Trustee, an appropriate instrument confirming such termination to the Owner-Trustee, in recordable form, in order that the Owner-Trustee may make clear upon the public records the full title of the Owner-Trustee to such unit.

Any insurance proceeds or condemnation payments received and retained by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Owner-Trustee to the Vendor in respect of Casualty Occurrences pursuant to this Article. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence either after the Owner-Trustee shall have made payments pursuant to this Article without deduction for such insurance proceeds or condemnation payments, or in excess of the Casualty Value (after taking into account payments by the Owner-Trustee under this Article) of such units, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Owner-Trustee. All insurance proceeds or condemnation payments or such excess received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Owner-Trustee upon proof satisfactory to the Vendor that the damage to such unit in respect of which such proceeds were paid has been fully repaired.

Any money paid to the Vendor pursuant to this Article shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment, the CSA Indebtedness and the Owner-Trustee will promptly furnish to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as they may request. In the event of the requisition for use by the United States Government of any unit of the Equipment not constituting a Casualty Occurrence, all the Owner-Trustee's obligations

hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

The "Casualty Value" of any unit of Equipment on any date shall be deemed to be an amount computed by multiplying the unpaid principal amount of the CSA Indebtedness outstanding on such date (after giving effect to any payment in respect thereof made on such date pursuant to Article 4 hereof) by a fraction of which the numerator shall be the Purchase Price of such unit and the denominator shall be the Purchase Price of all units (including such unit) subject to this Agreement on such date.

The Owner-Trustee will at all times prior to the payment of the CSA Indebtedness, together with interest thereon and all other payments required hereby, maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Equipment at the time subject hereto, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against all risks customarily insured against by the Lessee or any other user of the Equipment on similar equipment owned by it; provided, however, that subject to availability the amount of such coverage shall not, at any time, be less than \$1,000,000 (with a deductible of not greater than \$300,000) per occurrence. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee or the Lessee as their respective interests may appear.

The Owner-Trustee will at all times prior to the payment of the CSA Indebtedness, together with interest thereon and all other payments required hereby, at its own expense, carry and maintain or cause to be carried and maintained public liability insurance, naming the Vendor as additional named insured as its interests may appear, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Lessee or any other user of the Equipment in respect of similar equipment owned by it; provided, however, that the deductible with respect to the Equipment will not exceed the greater of \$1,000,000 or 10% of the Lessee's net worth.

ARTICLE 8. Reports and Inspections. The Owner-Trustee covenants and agrees to furnish to the Vendor, on or before April 1 in each year, commencing with the calendar year 1980, an accurate statement as of the preceding December 31 (i) showing the amount, description and numbers of all the units of Equipment then subject hereto and the amount, description and numbers of all such units of Equip-

ment that may have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such certificate) or, to the knowledge of the Owner-Trustee, are then undergoing repairs (other than running repairs) or have been withdrawn from use pending repair (other than normal running repairs), and such other information regarding the condition and state of repair of such units of Equipment as the Vendor may reasonably request and (ii) stating that in the case of all such units of Equipment repainted or repaired during the period covered thereby the marks required by Article 9 hereof have been preserved or replaced. The Vendor, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect the records of the Owner-Trustee with respect to the Equipment, and the Owner-Trustee covenants in that event to furnish to the Vendor all reasonable facilities for the making of such inspection.

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

ARTICLE 9. Marking of Equipment. The Owner-Trustee agrees that it will cause each unit of the Equipment to be kept, numbered and marked as provided in § 5 of the Lease.

The Owner-Trustee will not place or permit any unit of the Equipment to be placed in operation or exercise any control or dominion over the same until such words have been so marked on both sides thereof and will replace or cause to be replaced promptly any such words which may be removed, defaced, obliterated or destroyed. The Owner-Trustee shall not change, or permit to be changed, the identifying number of any unit of the Equipment unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and duly filed, recorded and deposited by the Owner-Trustee in all public offices where this Agreement shall have been filed, recorded and deposited and (ii) the Owner-Trustee shall have furnished the Vendor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's interest in such units of Equipment and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor in such units.

Except as above provided, the Owner-Trustee will

not allow the name of any person, association or corporation to be placed on the units of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Owner-Trustee may permit the Equipment to be lettered with the names, trademarks, initials or other insignia customarily used by the Lessee, and, so long as any sublease with a sublessee of the Equipment permitted by § 12 of the Lease shall remain in effect, by such sublessee, or their respective affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their respective rights to use the Equipment under the Lease or any sublease.

ARTICLE 10. Compliance with Laws and Rules. During the term of this Agreement, the Owner-Trustee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all Applicable Laws (as defined in § 9 of the Lease) to the extent that such Applicable Laws affect the title, operation or use of the Equipment, and in the event that such Applicable Laws require any alteration, replacement, addition or modification of or to any part of any unit of the Equipment, the Owner-Trustee will, or will cause the Lessee to, conform therewith at no expense to the Vendor; provided, however, that the Owner-Trustee or the Lessee may, in good faith, contest or cause to be contested the validity or application of any such Applicable Laws in any reasonable manner which does not, in the reasonable opinion of the Vendor, materially adversely affect the property or rights of the Vendor under this Agreement.

The obligations of the Owner-Trustee under this Article 10 are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

ARTICLE 11. Possession of Equipment. So long as no event of default has occurred and is continuing hereunder, the Owner-Trustee shall be entitled to the possession and use of the Equipment and also to enter into the Lease, and to permit the use or sublease of the Equipment as provided in the Lease. The Owner-Trustee hereby agrees that the Lease and the rights of the Owner-Trustee to receive rentals and other payments due and to become due thereunder shall be subject and subordinate to this Agreement and to the rights of the Vendor hereunder and under the Consent, except to the extent such payments have been excluded from the Lease Assignment as therein provided.

The Owner-Trustee will not amend or consent to any change in the Lease which might adversely affect the rights of the Vendor without the prior written consent of the Vendor.

ARTICLE 12. Discharge of Liens. The Owner-Trustee will pay or discharge any and all sums claimed by any party from, through or under the Owner-Trustee, the Owner or the successors or assigns of any of them which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the "income and proceeds from the Equipment" (as defined in Article 4 hereof), and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, materially adversely affect the interest of the Vendor in the Equipment, its interest in said income and proceeds from the Equipment, or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

The obligations of the Owner-Trustee under this Article 12 are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof; provided, however, that the Owner-Trustee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Owner-Trustee or the Owner or the successors or assigns of any of them, not arising out of the transactions contemplated hereby (but including any tax liens arising out of the receipt of rentals and other payments under the Lease or the Participation Agreement), but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not materially adversely affect the security interest of the Vendor in the Equipment, its interest in said income and proceeds from the Equipment, or otherwise under this Agreement or the interest

of the Owner in the Lease or the Equipment or the income or proceeds therefrom.

ARTICLE 13. Indemnity; Builder's Representations and Warranties. The Owner-Trustee shall pay, and shall protect, indemnify and hold the Vendor, the Investors, and their respective successors, assigns, principals, agents and servants (hereinafter called Indemnified Persons), harmless from and against any and all Indemnified Matters (as defined in § 9 of the Lease) which may be imposed on, incurred by or asserted against any Indemnified Person; except, however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant hereunder by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A hereto. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Owner-Trustee may and, upon such Indemnified Person's reasonable request will, at the Owner-Trustee's expense, resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Owner-Trustee and approved by such Indemnified Person and, in the event of any failure by the Owner-Trustee to do so, the Owner-Trustee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Owner-Trustee is required to make any payment under this Article, the Owner-Trustee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes), shall be equal to the amount of such payment. The Vendor and the Owner-Trustee each agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article 13 by the Owner-Trustee, or the making of provision satisfactory to the Indemnified Person for the full payment thereof, and provided that no event of default set forth in Article 15 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, the Owner-Trustee shall be subrogated to any right of such Indemnified Person in respect of the matter

against which indemnity has been given. Any payments received by such Indemnified Person from any person as a result of any Indemnified Matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease or by any sublessee under any sublease permitted by § 12 of the Lease shall be paid over to the Owner-Trustee to the extent necessary to reimburse the Owner-Trustee for indemnification payments previously made in respect of such Indemnified Matter.

The indemnities contained in this Article shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article 13 shall be deemed to create any rights of subrogation in any insurer or third party against the Owner-Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The Owner-Trustee will bear the responsibility for and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

The obligations of the Owner-Trustee under this Article 13 are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

The Builder represents and warrants to the Owner-Trustee and the Assignee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Builder will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights created by this Agreement, the Assignment and the Lease and that at such time each such unit will be new railroad equipment the original use of which will commence with the Owner-Trustee and no used components will be included therein.

The Builder represents that it is not entering into this Agreement, or entering into any assignment of this Agreement, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it or the Lessee, the Assignee, the Owner-Trustee in its individual capacity, the Agent in its individual capacity, or the Owner is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Item 3 of Annex A hereto.

ARTICLE 14. Assignments. Without the prior consent of the Vendor, the Owner-Trustee will not (a) transfer the right to possession of any unit of the Equipment, except as provided in Articles 11 or 15 hereof, or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement except as provided in the Trust Agreement.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Owner-Trustee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities contained or referred to in Article 13 hereof, or relieve the Owner-Trustee of its respective obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Owner-Trustee and the Lessee, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Owner-Trustee of the notification of any such assignment, all payments thereafter to be made by the Owner-Trustee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Owner-Trustee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Owner-Trustee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to

the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Owner-Trustee or the Lessee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Owner-Trustee or the Lessee, as the case may be, against and only against the Builder.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Owner-Trustee shall default in the payment of the principal of or interest on the CSA Indebtedness or a payment in respect of a Casualty Occurrence under Article 7 hereof (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Owner-Trustee), and such default shall continue for 10 business days after notice has been given to the Owner-Trustee that payment has not been made when due and payable; or

(b) the Owner-Trustee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Owner-Trustee) or the Lessee shall, for more than 30 days after the Vendor shall have demanded to the Lessee and the Owner-Trustee in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment (other than, in the case of the Lessee, the Lease), on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Lease and the Consent

shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 60 days after such proceedings shall have commenced; or

(d) any other proceeding shall be commenced by or against the Owner-Trustee, the Owner or the Lessee for any relief which includes, or might result in, any modification of the obligations of the Owner-Trustee hereunder or of the Owner under the Trust Agreement, or of the Lessee under the Lease and the Consent under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Owner-Trustee under this Agreement or of the Owner under the Trust Agreement, or of the Lessee under the Lease and the Consent shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Owner-Trustee, the Owner or the Lessee, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(e) the Owner-Trustee shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment and the Owner-Trustee shall, for more than 30 days after demand in writing by the Vendor, fail to secure a reassignment or retransfer to the Owner-Trustee of such Agreement, interest or right; or

(f) any Event of Default (as defined in the Lease) shall have occurred and be continuing under the Lease; provided, however, that an Event of Default under paragraph (A) of § 10 of the Lease shall not be deemed to be an event of default hereunder if the Owner-Trustee shall have cured such event of default within the 10-business-day period provided by subparagraph (a) of this Article 15, except that the Owner-Trustee shall not have the right to cure in the aggregate more than four such events of default hereunder nor shall it have the right to cure such events of default on more than two consecutive occasions;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Owner, the Owner-Trustee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the Lease immediately upon such notice to terminate (and the Owner-Trustee acknowledges the right of the Vendor to terminate the Lease), but without affecting the indemnities which by the provisions of the Lease survive its termination and/or (ii) declare (hereinafter called a "Declaration of Default") the entire unpaid CSA Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Owner-Trustee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Owner-Trustee shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease or any sublease by notice to the Owner-Trustee and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease or sublease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Owner-Trustee that time is of the essence of this Agreement.

and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 15 A. Stay of Foreclosure Provisions. Notwithstanding the provisions of Articles 15 and 16 hereof, the right of the Vendor to declare the entire unpaid CSA Indebtedness to be immediately due and payable upon the occurrence of an event of default or to pursue the other remedies therein provided upon the occurrence of an event of default, shall be subject to the provision that the Vendor may not make such declaration or pursue such remedies if and so long as all the following conditions are and continue to be satisfied:

(i) all payments of CSA Indebtedness and interest thereon otherwise due under this Agreement shall have been and shall continue to be made when due as provided in this Agreement;

(ii) the Owner-Trustee shall be in compliance with all of the other provisions of this Agreement, notwithstanding the provisions of Articles 4 and 21 hereof which would otherwise limit the Owner-Trustee's personal obligations hereunder;

(iii) within 30 days after such event of default, Grand Trunk Western Railroad Company ("Grand Trunk") shall have executed and delivered to the Owner-Trustee a lease (the "Stand-By Lease") with respect to the "Stand-By Equipment", as that term is defined in and otherwise in accordance with the Stand-By Agreement dated as of August 20, 1979, between Grand Trunk and the Owner-Trustee (the "Stand-By Agreement"), a copy of which has been delivered to the Vendor, and the rights of the Owner-Trustee under the Stand-By Lease shall have been validly assigned to the Vendor as additional security for the Owner-Trustee's obligations hereunder, pursuant to an Assignment of Lease and Agreement in substantially the form attached hereto as Annex D, together in each case with such opinions of counsel, corporate resolutions and supporting documents as the Vendor may reasonably request; and

(iv) any unit of Equipment which Grand Trunk shall have declared not to be in "operable condition" pursuant to the Stand-By Agreement and which the Owner-Trustee is not causing with reasonable diligence and continuity, to be placed in "operable condition", or which shall not have been delivered to and accepted by Grand Trunk under the Stand-By Lease within 12 months after the execution and delivery thereof, shall be deemed to have suffered a

Casualty Occurrence and the Casualty Value thereof shall promptly thereafter have been paid, all as provided in Article 7 hereof.

After the execution and delivery of the Standby-By Lease, Grand Trunk shall thereafter for all purposes of this Agreement be deemed to be the "Lessee" and the Stand-By Lease shall be deemed to be the "Lease", with respect to the Stand-By Equipment delivered to and accepted by Grand Trunk thereunder. The right of Grand Trunk to continued possession of any unit of Stand-By Equipment under the Stand-By Lease or otherwise shall be subject to the rights of the Vendor under this Agreement and, if any of the conditions set forth in clauses (i) through (iv) above shall at any time not be satisfied, the Vendor may terminate the Stand-By Lease, and the Stand-By Lease shall expressly so provide. Upon the occurrence of an Event of Default under the Lease (other than an Event of Default which the Vendor determines not to be material and it is understood that an Event of Default described in paragraph (G) of § 10 shall be deemed material), the Vendor will authorize the Owner-Trustee, at the sole cost and expense of the Owner-Trustee, to exercise the remedies set forth in § 10(a) and § 10(b) of the Lease in order to obtain possession of the Equipment from Illinois Terminal Railroad Company for the purpose of delivering such Equipment to Grand Trunk under the Stand-By Lease.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Owner-Trustee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Owner-Trustee or any other person and for such purpose may enter upon the premises of the Owner-Trustee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Owner-Trustee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Owner-Trustee shall, at its own expense

and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, causing prompt telegraphic and written notice to be given to all railroads which may have possession of any unit or units of the Equipment to return the unit or units) cause the Equipment to be placed upon such storage tracks as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks without charge for insurance, rent or storage until the Equipment has been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to such interchange point or points as directed by the Vendor upon any sale, lease or other disposal of all or any of the Equipment.

During any storage period, the Owner-Trustee will, at its own cost and expense, insure, maintain and keep each such unit in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers, lessees and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and upon the application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree of specific performance hereof. The Owner-Trustee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, upon the notice and procedures as are hereinafter set forth, retain the Equipment in satisfaction of the entire CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Owner-Trustee, the Owner and the Lessee by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor shall elect to retain the Equipment and the Owner-Trustee and the Owner do not object thereto in writing as described in the second proviso below, all the Owner-

Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Owner-Trustee or for its account may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Owner-Trustee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee; provided, further, that if the Owner-Trustee, the Owner, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon 30 days notice to the Owner-Trustee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell or contract to sell the Equipment, or one or more of the units thereof, free from any and all claims of the Owner-Trustee, the Lessee, any sublessee under the Lease or any other party claiming from, through or under the Owner-Trustee, the Lessee or any sublessee under the Lease, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Owner-Trustee should tender full payment of the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor

in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be conducted in a commercially reasonable manner. The Vendor, the Owner-Trustee and the Owner may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Owner-Trustee and the Lessee shall be given written notice of such sale or the making of a contract for such sale not less than 30 days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Owner-Trustee to purchase or provide a purchaser, within 15 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Owner-Trustee or the Lessee (except to the extent of surplus money received as herein-after provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor except that the Vendor shall not be deemed to have the power or remedy to retain the Equipment in satisfaction of the CSA Indebtedness except as specifically provided in this Article 16. All such powers and remedies shall be

cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Owner-Trustee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Owner-Trustee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Owner-Trustee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Owner-Trustee shall, subject to the limitations of the last paragraph of Article 4 and Article 21 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Owner-Trustee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Owner-Trustee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Owner-Trustee.

The Owner-Trustee will pay all reasonable expenses, including reasonable attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable compensation and expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations of the last paragraph of Article 4 and Article 21 hereof.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Owner-Trustee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Owner-Trustee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 18. Recording. Subject to the provisions of Article 21 hereof, the Owner-Trustee will, (a) promptly after the execution and delivery of this Agreement, any assignments hereof, the Lease, the Lease Assignment and each supplement hereto and thereto, respectively, cause this Agreement, any assignments hereof, the Lease, the Lease Assignment and each such supplement to be duly filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303, (b) from time to time do and perform any other act and execute, acknowledge, deliver and file, register and record any and all further instruments required by law or reasonably requested by the Vendor for the purposes of proper protection of the security interest of the Vendor, (c) furnish an opinion or opinions of counsel of the Lessee in connection with such filing, registration, and recordation, and (d) promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Annexes hereto, and the Participation Agreement, exclusively and completely state the rights of the Vendor and the Owner-Trustee with respect to the Equipment and supersede all other agreements,

oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Owner-Trustee.

ARTICLE 20. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by registered mail, postage prepaid, at the following addresses:

(a) to the Owner-Trustee, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department,

(b) to First Security Bank of Utah, N.A., as the Assignee or as the Vendor, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department,

(c) to the Builder, as the Builder or as the Vendor, at its address specified in Item 1 of Annex A hereto,

(d) to the Owner, at West 80 Century Road, Paramus, New Jersey 07652, Attention of Vice President-Finance,

(e) to the Lessee, at 710 N. Twelfth Boulevard, St. Louis, Missouri 63177,

(f) to any assignee of the Vendor, or of the Owner-Trustee, at such address as may have been furnished in writing to the Owner-Trustee, or the Vendor, as the case may be, and to the Lessee, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 21. Immunities, Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or

officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Owner-Trustee under the second and eighth paragraphs of Article 16 and under Articles 3, 6, 7, 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Owner-Trustee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed or cured as permitted hereby they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. So long as any CSA Indebtedness remains outstanding, no waiver or amendment by the Owner-Trustee of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security State Bank, or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank or the Owner on account of any representation, undertaking or agreement hereunder of said bank acting in its capacity as Owner-Trustee, or the Owner either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 hereof and subparagraph (a) of the third paragraph of Article 4 hereof; all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

ARTICLE 22. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be

governed by the laws of the State of Utah; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed all as of the date first above written.

PULLMAN INCORPORATED (Pullman Standard Division),

by

R. E. Lynch
Vice President - FREIGHT UNIT

Attest:

W. E. Baker
ASSISTANT SECRETARY

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by

Authorized Officer

Attest:

STATE OF ILLINOIS,)
) ss.:
 COUNTY OF COOK,)

On this 27th day of September 1979, before me personally appeared PE Lynch, to me personally known, who, being by me duly sworn, says that he is a Vice President of ^{REGIST. UNIT} PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Janice K. Renteria
 Notary Public

[Notarial Seal]

My Commission Expires 8-7-83

STATE OF UTAH,)
) ss.:
 COUNTY OF SALT LAKE,)

On this day of September 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

 Notary Public

[Notarial Seal]

My Commission Expires

governed by the laws of the State of Utah; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed all as of the date first above written.

PULLMAN INCORPORATED (Pullman
Standard Division),

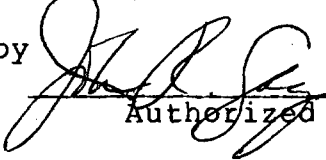
by

Attest:

Vice President

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by



Authorized Officer

Attest:

Sandra P. Powell

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this day of September 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission Expires

STATE OF UTAH,)
COUNTY OF SALT LAKE,) ss.:
)

On this 21 day of September 1979, before me personally appeared JOHN R. SAGER, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Venna L. O'Carra
Notary Public

My Commission Expires November 15, 1981

[Notarial Seal]

My Commission Expires

SCHEDULE I

Allocation Schedule of Each \$1,000,000 of
Conditional Sale Indebtedness

<u>Date</u>	<u>Debt Service</u>	<u>Debt Interest</u>	<u>Debt Principal</u>	<u>Debt* Balance</u>
9/1979	0.00	0.00	0.00	1,000,000.00
3/1980	68,708.34	52,500.00	16,208.34	983,791.66
9/1980	68,708.34	51,649.06	17,059.28	966,732.38
3/1981	68,708.34	50,753.45	17,954.89	948,777.49
9/1981	68,708.34	49,810.82	18,897.52	929,879.97
3/1982	68,708.34	48,818.70	19,889.64	909,990.33
9/1982	68,708.34	47,774.49	20,933.85	889,056.48
3/1983	68,708.34	46,675.47	22,032.87	867,023.61
9/1983	68,708.34	45,518.74	23,189.60	843,834.01
3/1984	68,708.34	44,301.29	24,407.05	819,426.96
9/1984	68,708.34	43,019.92	25,688.42	793,738.54
3/1985	68,708.34	41,671.27	27,037.07	766,701.47
9/1985	68,708.34	40,251.83	28,456.51	738,244.96
3/1986	68,708.34	38,757.86	29,950.48	708,294.48
9/1986	68,708.34	37,185.46	31,522.88	676,771.60
3/1987	68,708.34	35,530.51	33,177.83	643,593.77
9/1987	68,708.34	33,788.67	34,919.67	608,674.10
3/1988	68,708.34	31,955.39	36,752.95	571,921.15
9/1988	68,708.34	30,025.86	38,682.48	533,238.67
3/1989	58,945.86	27,995.03	30,950.83	502,287.84
9/1989	65,589.82	26,370.11	39,219.71	463,068.13
3/1990	47,231.71	24,311.08	22,920.63	440,147.50
9/1990	59,965.35	23,107.74	36,857.61	403,289.89
3/1991	41,816.90	21,172.72	20,644.18	382,645.71
9/1991	65,755.61	20,083.90	45,666.71	336,979.00
3/1992	66,916.93	17,691.40	49,225.53	287,753.47
9/1992	66,916.93	15,107.06	51,809.87	235,943.60
3/1993	66,916.93	12,387.04	54,529.89	181,413.71
9/1993	66,916.93	9,524.22	57,392.71	124,021.00
3/1994	66,916.93	6,511.10	60,405.83	63,615.17
9/1994	66,954.97	3,339.80	63,615.17	0.00
	1,977,594.99	977,594.99	1,000,000.00	0.00

* Interest payment to be calculated in accordance with Article 4 of the CSA.

ANNEX A
to
Conditional Sale Agreement

- Item 1: Pullman Incorporated (Pullman Standard Division), at 200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2: The Equipment hereto shall be settled for in not more than one Group.
- Item 3: (a) The Builder warrants that the units of the Equipment will be built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (the "CSA") and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Railroad and not manufactured by the Builder) and workmanship or design (except as to designs specified by the Railroad and not developed or purported to be developed by the Builder) under normal use and service; the Builder's obligation under this paragraph being limited to making good at its plant any part or parts of any unit of the Equipment which shall be returned to the Builder within one year after delivery of such unit, or as to which written notice of such defect has been given by the Owner-Trustee or the Railroad to the Builder within one year after delivery of such unit and which part or parts are returned within 90 days after such notice to the Builder, provided that the Builder's examination shall disclose to its reasonable satisfaction such part or parts to have been defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on unit running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever first occurs; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance, and compliance with the Builder's written instructions and any applicable Federal, state or local laws or regulations. THIS WARRANTY

IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER ARTICLES 2, 3, 4 AND 13 OF THE CSA. The Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of its Equipment, except for the patent indemnification under Item 3(b) below and as aforesaid.

The Builder also agrees to exert its best efforts to include, as a condition of its purchase order with the vendor of a specialty purchased by the Builder for incorporation in the Equipment and not warranted hereunder, an agreement by such vendor to the effect that all warranty agreements and representations, if any, made by such vendor to the Lessee or to the Builder may be enforced by the Lessee in the Lessee's own name. The Builder hereby agrees to assign to the Lessee, solely for the purpose of making and prosecuting any such claim, all of the rights which the Builder has against such vendor for the breach of warranty or other representation respecting the Equipment.

The Builder further agrees that neither the inspection as provided in Article 3 of the CSA, nor any examination or acceptance of any units of its Equipment as provided in said Article 3, shall be deemed a waiver or modification by the Lessee of any of its rights under this Item 3.

It is further understood and agreed that the word "design(s)" as used herein and in Item 3(b) below and the word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

(b) Except in case of designs, processes or combinations specified by the Railroad and not developed or purported to be developed by the Builder, and articles and materials specified by the Railroad and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Lessee, the Owner-Trustee, the

Assignee, the Investors and the Owner from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Lessee, the Owner-Trustee, the Assignee, the Investors or the Owner because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Lessee, as a condition of being a third party beneficiary of the CSA, likewise will indemnify, protect and hold harmless the Builder from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Builder because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process or combination specified by the Lessee and not developed or purported to be developed by the Builder, or article or material specified by the Lessee and not manufactured by the Builder, which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Lessee every claim, right and cause of action which the Builder has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article or material specified by the Railroad and used by the Builder in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and the Builder further agrees to execute and deliver to the Lessee each and every such further assurance as may be reasonably requested by it to more fully effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Lessee, as a condition of being a third party beneficiary of the CSA, will give notice to the Builder of any claim known to the Lessee on the

basis of which liability may be charged against the Builder hereunder and the Builder will give notice to the Lessee of any claim known to the Builder, as the case may be, on the basis of which liability may be asserted against the Lessee hereunder.

Item 4: The Maximum Purchase Price referred to in Article 4 of the CSA is \$8,500,992.

Item 5: The Maximum CSA Indebtedness referred to in Article 4 of the CSA is \$6,000,000.

ANNEX B
to
Conditional Sale Agreement

<u>Type</u>	<u>Builder's Specification</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Road Numbers (Inclusive)</u>	<u>Estimated Time of Delivery</u>
50 foot, 6 inch 70 ton, Class XM boxcar	No. , dated March , 197 , as amended.	Bessemer, Alabama	200	\$42,500	\$ 8,500,000	ITC 8000-8199	September 24, 1979

Place of delivery: Bessemer, Alabama.

Annex C to
Conditional Sale Agreement

[CS&M--5237-009]

LEASE OF RAILROAD EQUIPMENT

Dated as of August 20, 1979

between

ILLINOIS TERMINAL RAILROAD COMPANY,

Lessee

and

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely as Owner-Trustee for
Ingersoll-Rand Financial Corporation,

Lessor

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SCHEDULE B	L-51

LEASE OF RAILROAD EQUIPMENT dated as of August 20, 1979, between ILLINOIS TERMINAL RAILROAD COMPANY, (together with its successors and permitted assigns hereinafter called the "Lessee"), and FIRST SECURITY STATE BANK, a Utah corporation, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and permitted assigns, called the "Owner-Trustee") under a Trust Agreement dated as of the date hereof (the "Trust Agreement"), with Ingersoll-Rand Financial Corporation, (hereinafter together with its successors and permitted assigns called the "Owner").

The Owner-Trustee has entered or will enter into a conditional sale agreement (the "Security Document") with Pullman Incorporated (Pullman Standard Division) (the "Builder"), pursuant to which the Owner-Trustee has agreed or will agree to purchase and take delivery of the railroad equipment described in Schedule A hereto (the "Equipment").

The Builder is assigning its interests in the Security Document pursuant to an Agreement and Assignment (the "Assignment") to First Security Bank of Utah, N.A., acting as Agent (hereinafter together with its successors and assigns called the "Vendor"), under a Participation Agreement dated as of the date hereof (the "Participation Agreement") with the Lessee, the Owner-Trustee, the Owner and the parties named in Schedule A thereto (the "Investors").

The Lessee agrees to lease from the Owner-Trustee all the units of the Equipment (or such lesser number of units as are delivered and accepted and settled for under the Security Document) at the rentals and for the term and upon the conditions hereinafter provided (each such unit so leased being hereinafter called a "Unit").

The Owner-Trustee will assign certain of its rights under this Lease, as security to the Vendor pursuant to an Assignment of Lease, dated as of the date hereof (the "Lease Assignment") and the Lessee will consent to the Lease Assignment pursuant to a Consent and Agreement substantially in the form attached thereto (the "Consent").

NOW, THEREFORE, in consideration of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Owner-Trustee hereby agrees to lease the Units to the Lessee upon the following terms and conditions:

§ 1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein provided, the Lessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions, counterclaims or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Owner-Trustee or the Owner, whether under this Lease, under the Security Document or otherwise, including the Lessee's rights by subrogation hereunder or thereunder against the Owner-Trustee or the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Owner-Trustee or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Owner-Trustee, the Owner or the Vendor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Owner-Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Document; provided, however, that such acceptance shall be in accordance with the provisions of Article 3 of the Security Document. Each delivery of a Unit to the Owner-Trustee under the Security Document shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Owner-Trustee under the Security Document. Upon delivery of such Unit, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Owner-Trustee under the Security Document and itself hereunder and to execute and deliver to the Owner-Trustee a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the Security Document, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Owner-Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Document pursuant to the second paragraph of Article 3 or the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such Unit to this Lease or to constitute acceptance thereof on behalf of the Owner-Trustee for any purpose whatsoever. The Lessee hereby represents and warrants to the Owner-Trustee that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Lessee or its agent as agent for the Owner-Trustee hereunder.

§ 3. Rentals. With respect to each Unit subject to this Lease, the Lessee will pay to the Owner-Trustee as basic rental 30 consecutive semiannual payments, payable on March 28 and September 28, in each year, commencing March 28, 1980. The rental payments shall each be in an amount equal to 4.8500% of the Purchase Price (as defined in the Security Document) of each Unit subject to this Lease on the date of such payment; provided, however, that if (i) the Closing Date under the Security Document shall occur prior to September 28, 1979, the rental payment due on March 28, 1980, shall be increased by 0.02058823% of such Purchase Price

for each day elapsed between the Closing Date and September 28, 1979, or (ii) such Closing Date shall occur after September 28, 1979, the first rental payment due on March 28, 1980, shall be reduced by 0.0063564% of such Purchase Price for each day elapsed between September 28, 1979, and the Closing Date.

In addition to the foregoing basic rental, the Lessee will pay to the Owner-Trustee the following additional rentals: (i) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to the last paragraph of Paragraph 9 of the Participation Agreement, and (ii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to the first paragraph of Paragraph 9 of the Participation Agreement, in each case on such date as will enable the Owner-Trustee to make such payment.

If any of the semiannual rental payment dates referred to above is not a Business Day (as such term is defined in the Security Document) the semiannual rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding Business Day.

The Owner-Trustee irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments (except as provided in the Lease Assignment) due the Owner-Trustee provided for in this Lease including, but not limited to, all payments provided for in this § 3 and in § 7 hereof, (i) for so long as the Security Document shall remain in effect, to the Vendor, for the account of the Owner-Trustee, in immediately available funds at or prior to 11 a.m. (Salt Lake City time) to the office of the Vendor (at 79 South Main Street, Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department) on the date due, with instructions to the Vendor to apply such payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement, and (ii) if the Security Document shall no longer be in effect, to the Owner-Trustee or as directed by the Owner-Trustee in immediately available funds at such place as the Owner-Trustee shall specify in writing.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of

§§ 7, 10 and 13 hereof, shall terminate on September 28, 1994. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9, 11, 14, 19 and 23 hereof) shall survive the expiration of the term of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the Security Document. If an event of default should occur under the Security Document, the Vendor may terminate this Lease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain or cause to be kept and maintained, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words, "OWNER-SHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTER-STATE COMMERCE COMMISSION", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Owner-Trustee's title to and the Vendor's security interest in such Unit and the rights of the Owner-Trustee under this Lease and of the Vendor under the Security Document. The Lessee will not place or permit any such Unit to be placed in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Lessee will not change or permit to be changed the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Owner-Trustee and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Owner-Trustee an opinion of counsel to the effect that such

statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Owner-Trustee's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Owner-Trustee in such Units.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Lessee or any sublessee of the Equipment permitted by § 12 hereof or their respective affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Equipment under this Lease or any sublease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Lessee or any sublessee therein.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees to pay or cause to be paid, and on written demand to indemnify and hold the Owner-Trustee, the Owner, the Builder, the Vendor, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Security Document and the Participation Agreement harmless from all taxes (income, gross receipts, franchise, sales, use, property [real or personal, tangible or intangible], stamp and minimum [imposed under Section 56 of the Internal Revenue Code of 1954, as amended] taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Owner-Trustee, the Owner, the Builder, the Vendor, the Investors, the Lessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under the Security Document and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or

earnings arising therefrom; this Lease, the Lease Assignment, the Consent, the Trust Agreement, the Participation Agreement (including the certificates of interest and the issuance thereof to Investors pursuant thereto), the Security Document, or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Security Document and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: (i) Taxes of the United States or of any state or local government or governmental subdivision or authority thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Owner-Trustee (in its individual capacity), the Owner, the Investors, the Builder or the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Lease shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Owner or any transfer or disposition by or on behalf of the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease, without the consent of the Lessee, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Owner-Trustee or the Vendor; and (iv) Taxes which are imposed on or measured solely by the net income of the Owner-Trustee or the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Lessee has not agreed to pay or indemnify against pursuant to this § 6; provided, however, that the Lessee shall not be required to

pay any Taxes during the period it may be contesting or causing to be contested the same in the manner provided in the fourth paragraph of this § 6. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of Section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

The amount which the Lessee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In the event that the Owner-Trustee shall become obligated to make any payment to the Builder, Investors, the Vendor or the estate held by the Vendor under the Security Document and the Participation Agreement pursuant to Article 6 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, not covered by the first paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner-Trustee or the Owner as will enable the Owner-Trustee or the Owner to fulfill completely its obligations pursuant to said provisions. The Owner-Trustee agrees not to enter into any amendment of the Security Document or the Trust Agreement which would adversely affect the interest of the Lessee under this Lease without the written consent of the Lessee.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disburse-

ments, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, or cause to be contested, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent shall not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such indemnified party shall pay to the Lessee the amount of such refund or interest net of expenses, but only if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Lessee under this § 6 or arising out of this § 6, except obligations resulting from the second sentence of the first paragraph of this § 6, the Lessee shall either make or cause to be made such report or return in such manner as will show the interests of the Owner-Trustee and the Vendor in the Units, or shall promptly notify or cause to be notified the Owner-Trustee, the Owner and the Vendor of such requirement and shall make or cause to be made such report or return in such manner as shall be satisfactory to the Owner-Trustee, the Vendor and the Owner. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this § 6 shall survive and continue, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Lease, but only with respect to periods included in the term of this Lease. Payment due from the

Lessee under this § 6 shall be made directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

The Lessee shall furnish or cause to be furnished promptly, upon request, such information and data as are normally available to the Lessee and which the Owner-Trustee, the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§ 7. Payment for Casualty Occurrences; Insurance.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee, or any sublessee permitted under § 12 hereof for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called Casualty Occurrences), during the term of this Lease, or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Lessee shall promptly and fully notify or cause to be notified (after the Lessee or any sublessee permitted under § 12 hereof has knowledge of such Casualty Occurrence) the Owner-Trustee, the Owner and the Vendor with respect thereto. On the rental payment date (not earlier than the first regular semiannual rental payment date) next succeeding the delivery of such notice (or, in the event the term of this Lease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery), the Lessee shall pay or cause to be paid to the Owner-Trustee an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value of such Unit as of such payment date (such rental payment date being hereinafter called the Casualty Payment Date). Upon the making of such payment by or on behalf of the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Owner-Trustee

shall be entitled to recover possession of such Unit.

If the Casualty Payment Date in respect of any Unit as required as aforesaid shall be after the term of this Lease in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term but the Lessee, in addition to paying the Casualty Value for such Unit shall pay or cause to be paid interest thereon from the end of such term to the Casualty Payment Date at the greater of (i) 11.50% per annum, or (ii) the prime rate of interest which The Chase Manhattan Bank (National Association) charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing.

The Owner-Trustee hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Owner-Trustee and no Event of Default hereunder, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to retain the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Owner-Trustee. If any such Event of Default or event has occurred and is continuing, the Lessee shall promptly pay all such proceeds to the Owner-Trustee.

The Casualty Value of each Unit as of the Casualty Payment Date for each such Unit shall be that percentage of the Purchase Price of each Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in § 23 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute a Casualty Occurrence, all

of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Owner-Trustee pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return rather than at the end of the term of this Lease; but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Owner-Trustee or the Lessee from the requisitioning authority for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Owner-Trustee or the Lessee from the requisitioning authority for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Owner-Trustee.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee will, at all times prior to the return of the Equipment to the Owner-Trustee in accordance with the terms of this Lease (including the storage period provided under §§ 11 and 14 hereof), maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Units at the time subject hereto, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Lessee or any sublessee permitted by § 12 hereof on similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than \$1,000,000 (with a deductible of not greater than \$300,000) per occurrence. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Lessee and any sublessee permitted under this Lease as their respective interests may appear.

The Lessee will, at all times prior to the return of the Equipment to the Owner-Trustee in accordance with the

terms of this Lease, at its own expense, carry and maintain or cause to be carried and maintained public liability insurance, naming the Owner, the Owner-Trustee and the Vendor as additional named insureds as their respective interests may appear, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Lessee or any sublessee permitted by § 12 hereof in respect of similar equipment owned by it; provided, however, that the deductible with respect to the Units will not exceed the greater of \$1,000,000 or 10% of the Lessee's net worth. Any policy of insurance carried in accordance with this paragraph shall not provide for any payment of premiums or commissions by the Owner, the Owner-Trustee, or the Vendor.

The Lessee shall obtain from each insurer under the two paragraphs immediately above an agreement, by endorsement or separate instrument, that such insurer will give the Owner-Trustee, the Owner and the Vendor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. All insurance required under the two paragraphs immediately above shall be effected with independent insurers rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization making such ratings and having a national reputation) as having a financial rating of at least "B+". On or prior to the delivery and acceptance of any Unit hereunder and under the Security Document, and in January of each year, the Lessee shall deliver to the Owner-Trustee, the Owner and the Vendor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1980, the Lessee will furnish or cause to be furnished to the Owner-Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than

running repairs) and such other information regarding the condition and state of repair of the Units as the Owner-Trustee or the Vendor may reasonably request prepared by an independent qualified engineer who may be the chief mechanical officer of the Lessee or any other employee of the Lessee and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the Security Document have been preserved or replaced. The Owner-Trustee shall have the right by its agents to inspect the Units and the Lessee's and its agent's records with respect thereto at such reasonable times as the Owner-Trustee may request during the continuance of this Lease.

The Lessee agrees at its expense to prepare and deliver or cause to be prepared and delivered to the Owner-Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Owner-Trustee) any and all reports (other than income tax returns) to be filed by the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Vendor of the Units or the leasing thereof to the Lessee or the subleasing thereof to any sublessee permitted by § 12 hereof.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. NEITHER THE OWNER-TRUSTEE NOR THE OWNER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE OWNER-TRUSTEE NOR THE OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Owner-Trustee and the Lessee, are to be borne by the Lessee; but the Owner-Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Owner-Trustee and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Owner-Trustee may have against the Builder. The Owner-Trustee and the Owner shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability,

loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Owner-Trustee that the Units described therein are in all the foregoing respects satisfactory to the Lessee; and the Lessee will not assert any claim of any nature whatsoever against the Owner-Trustee or the Owner based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Owner-Trustee, the Owner and the Vendor, to comply and to cause any sublessee to comply with in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all the laws of the jurisdiction in which its or any sublessee's operations involving the Unit may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent being hereinafter called "Applicable Laws") and in the event that such Applicable Laws require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will or will cause any sublessee to fully conform therewith at no expense to the Owner-Trustee or the Vendor; provided, however, that the Lessee may upon written notice to the Owner-Trustee and the Vendor, in good faith, contest or cause to be contested the validity or application of any such Applicable Law in any reasonable manner which does not, in the opinion of the Owner-Trustee or the Vendor, adversely affect the property or rights of the Owner-Trustee or the Vendor, respectively, under this Lease or under the Security Document.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered

an Addition thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and, in any event, in the condition that will permit such Unit to qualify as a box car of "XM Class" as defined, as of September 20, 1979, by the Association of American Railroads; provided, however, that the Lessee shall not be required to keep any Unit in actual "XM" service.

The Lessee and its affiliates, at their own cost and expense, may from time to time make or permit any sublessee permitted under § 12 hereof to make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the United States Department of Transportation, the Interstate Commerce Commission or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (hereinafter collectively called "Additions") to the Units as the Lessee or any sublessee may deem desirable in the proper conduct of its or any sublessee's business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease; provided, however, that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such addition not been made assuming the Unit was then in the condition required to be maintained by the terms of this Lease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Owner-Trustee and be subject to a valid first lien and prior perfected security interest under the Security Document in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for, any such original Part, (ii) such Part is required to be

incorporated in or installed as part of the Units pursuant to the terms of the second or third paragraph of this § 9 or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee or any sublessee. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Lessee shall pay or cause to be paid, and shall protect, indemnify and hold the Owner-Trustee, the Owner, the Investors and the Vendor (for purposes of this paragraph only, as defined in the Security Document), and their respective successors, assigns, principals, agents and servants (hereinafter called Indemnified Persons), as third party beneficiaries hereof, harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or imposed by statute; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the

ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder) or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Owner-Trustee's obligations under the Lease Assignment, the Security Document or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Owner-Trustee; or (viii) any claim arising out of the Vendor's holding a security interest under the Security Document or the Lease Assignment; (all of which matters hereinabove set forth in this § 9 being hereinafter called "Indemnified Matters"); excluding, however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant under the Security Document by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A to the Security Document. All payments hereunder shall be made directly to the Indemnified Person. The Lessee shall be obligated under this § 9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's reasonable request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make

any payment under this § 9, the Lessee shall pay or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Owner-Trustee each agrees to give the other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any Indemnified Matter by the Lessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person in respect of the Indemnified Matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified Matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 9 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such Indemnified Matter.

The Lessee further agrees to indemnify, protect and hold harmless the Owner-Trustee and the Investors, the Vendor and the Owner, as third party beneficiaries hereof, from and against any and all liabilities, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Owner-Trustee, the Investors, the Vendor or the Owner because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to the Builder of any claim known to the Lessee from which liability may be charged against the Builder under the Security Document.

In the event that the Owner-Trustee shall become obligated to make any payment to the Investors or the Vendor (for purposes of this paragraph only, as defined in the Security Document) pursuant to Article 13 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, not covered by the foregoing provisions of this § 9, the Lessee shall pay such additional amounts to the Owner-Trustee or the Owner as will enable the Owner-Trustee or the Owner to fulfill completely its obligations pursuant to said provisions; provided, however, no such payment shall be required with respect to payments arising as a result of the gross negligence or wilful misconduct of the Owner-Trustee or the Owner.

The indemnities contained in this § 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Owner-Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of any payment or other obligation, including without limitation the payment of any installments of principal or interest, under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term hereof as such term may or may not be renewed. With respect to the indemnities for Federal income taxes, reference is made to § 23 hereof.

§ 10. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

(A) payment of any part of the rental provided in § 3 or § 13 hereof or payment in respect of any Casualty Occurrence pursuant to § 7 hereof shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for five business days after such payment is due; or

(B) (x) any representation or warranty of the Lessee contained in the Participation Agreement or herein (except the representations and warranties contained in § 23 hereof) shall have been incorrect in any material respect as of the date when made, unless (i) such misrepresentation or the breach of such warranty has been cured, if curable, within 30 days after written notice thereof to the Lessee from the Owner-Trustee or the Vendor, or (ii) there is no material adverse effect on the rights of the Owner-Trustee, the Owner or the Vendor hereunder resulting from such misrepresentation or breach, or (iii) any damages resulting from such misrepresentation or breach shall have been paid within 30 days after demand therefore, to the satisfaction of the Owner-Trustee, the Owner and the Vendor, or (y) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement, and such default shall continue for 30 days after written notice from the Owner-Trustee or the Vendor to the Lessee specifying the default and demanding that the same be remedied; or

(C) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee, under this Lease or under the Consent shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed or proceedings commenced; or

(D) any other proceedings shall be commenced by or against the Lessee, for any relief which includes, or might result in, any modification of the obligations of the Lessee, hereunder or under the Consent, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness reor-

ganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee, hereunder or under the Consent), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or under the Consent shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee, or for the property of the Lessee, in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced;

(E) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof; or

(F) an event of default set forth in Article 15 of the Security Document shall have occurred; or

(G) default in the payment of any part of the fee or other payments to be made by the Lessee under the Fee Agreement dated the date hereof between the Lessee and Grand Trunk Western Railroad Company;

then, in any such case, the Owner-Trustee, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Owner-Trustee may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for

any proceeds arising therefrom; but the Owner-Trustee shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Owner-Trustee, in its sole discretion, shall specify:

(x) a sum with respect to each Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Owner-Trustee reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Owner-Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Owner-Trustee reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Owner-Trustee shall have sold or leased any Unit, the Owner-Trustee, in lieu of collecting any amounts payable to the Owner-Trustee by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Owner-Trustee and the Lessee shall pay to the Owner-Trustee on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such a sale an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over

the net proceeds of such sale, and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Lease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Owner-Trustee reasonably estimates to be obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Lease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause II of this sentence, semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Owner-Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Owner-Trustee shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make such rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Owner-Trustee to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver

of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Owner-Trustee.

The Lessee also agrees to furnish the Owner-Trustee, the Owner and the Vendor, promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default, or which with notice or lapse of time or both would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 10 a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 11. Return of Units Upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver or cause to be delivered possession of the Units to the Owner-Trustee and shall give or cause to be given prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Owner-Trustee pursuant to this § 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear and modifications, if any, permitted by this Lease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any Unit or Units to the Owner-Trustee as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Owner-Trustee and there assembled,

(b) furnish and arrange for the Owner-Trustee to store such Units on any lines of railroad or premises approved by the Owner-Trustee until such Units have been sold, leased or otherwise disposed of by the Owner-Trustee, and

(c) cause the Units to be moved to such interchange point or points as shall be designated by the Owner-Trustee upon any sale, lease or other disposal of all or any of the Units.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided, including the cost of repainting and restenciling the Units to the Owner-Trustee's specifications, shall be at the expense and risk of the Lessee (and the Lessee will maintain the insurance required by § 7 of this Lease to be maintained during this period) and are of the essence of this Lease; and, upon application to any court of equity having jurisdiction in the premises, the Owner-Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of any such Unit, to inspect the same. In the event that the Units or any thereof are sold, the Lessee shall pay to the Owner-Trustee the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Owner-Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Owner-Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Lessee to the Owner-Trustee or as the Owner-Trustee may direct.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Owner-Trustee without the consent of the Lessee; but the Lessee shall be under no obligation to any assignee of the Owner-Trustee other than the Vendor except upon written notice of such assignment from the Owner-Trustee. All the rights of the Owner-Trustee hereunder (including, but not limited to, the rights under §§ 6, 7, 10 and 23 and the rights to receive

the rentals payable under this Lease) shall inure to the benefit of the Owner-Trustee's successors and assigns, including the Vendor, except to the extent the same may be reserved to the Owner-Trustee.

So long as no Event of Default hereunder shall have occurred, the Lessee shall be entitled to the possession of the Units in accordance with the terms of this Lease but, except as permitted by the provisions of the following two paragraphs, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than as permitted by the provisions of the following two paragraphs and other than an encumbrance created by the Owner, the Owner-Trustee or the Vendor and not the result of an Event of Default or resulting from claims against the Owner, the Owner-Trustee or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Owner-Trustee, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor and the Owner-Trustee, materially adversely affect the interest of the Vendor or the Owner-Trustee in the Equipment, the Vendor's interest in the income and proceeds from the Equipment, or otherwise under this Lease or the Security Document. Except to the extent permitted by the provisions of the following two paragraphs, the Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms hereof and to permit the use of the Units by a railroad company or companies incorporated in the United States of America with which the Lessee has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights

or over which railroad equipment of such railroad company or companies is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, but only upon and subject to all the terms and conditions of this Lease and the Security Document; provided, however, that the Lessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), nor shall the Lessee assign or sublease to, or permit the sublease or use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of the Code. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any solvent corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Lessee hereunder and under the Participation Agreement by an appropriate instrument in writing) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition be in default under any provision of this Lease.

§ 13. Renewal Options and Limited Right of Purchase. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner-Trustee not less than six months prior to the end of the original term of this Lease elect to extend the term of this Lease in respect of all, but not fewer than all, the Units then covered by this Lease for one additional three-year period commencing on the scheduled expiration of the original term of this Lease, at a semiannual rental equal to the sum of ~~2.4250%~~ 2.500% of the Purchase Price of each Unit subject to this Lease on the date such rental is payable; such rental shall be payable in arrears on March 28 and September 28 in each year of the extended term of this Lease.

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Provided the Lessee exercises the renewal option provided in the first paragraph of this § 13, and provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner-Trustee not less than six months prior to the end of the extended term of this Lease as provided in the first paragraph of this § 13, elect to extend the term of this Lease in respect of all, but not fewer than all, the Units then covered by this Lease for one additional two-year period commencing on the scheduled expiration of the extended term of this Lease, at a semiannual rental rate equal to the Fair Market Rental Value of each Unit then subject to this Lease; such rental shall be payable in arrears on March 28 and September 28 in each year of the extended term of this Lease.

"Fair Market Rental Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing lessee-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to so further extend the term of this Lease pursuant to the second paragraph of this § 13, the Owner-Trustee and the Lessee are unable to agree upon a determination of the Fair Market Rental Value of the Units, such value shall be determined in accordance with the foregoing definition by the following appraisal procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental Value of the Units prior to the expiration of the extended term of this Lease. If the

parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental Value of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall be final and binding upon the parties hereto as the Fair Market Rental Value. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental Value and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, and in the event the Lessee has elected to extend the original term of this Lease pursuant to the first paragraph and/or the second paragraph of this § 13 and the Owner-Trustee elects to sell any Units to third parties at the expiration of the term of this Lease (as so extended under the first and/or second paragraphs of this § 13), the Lessee shall be given written notice of such election prior to the expiration of the term of this Lease, as so extended (such date being hereinafter called the Expiration Date). Subject to the first sentence of this paragraph, in the event that the Owner-Trustee shall receive, prior to 90 days after the Expiration Date, a bona fide offer in writing from another party to purchase the Units and the Owner-Trustee elects to sell the Units pursuant to such offer, the Owner-Trustee shall give written notice to the Lessee of such offer. Such notice shall be given to the Lessee on any date between 60 days before and 90 days after the Expiration Date and shall include the price and, if such offer was for other than solely cash, the other terms and conditions offered by the other party to the Owner-Trustee. The Lessee shall have the sole right and option, for a period of 20 days from the date of delivery of such notice, to purchase the Units for cash at the price, or at the price and (after giving effect to credit standing of the Lessee at the time of exercise of such purchase right) on substantially similar terms and conditions, at which the Units are proposed

to be sold. The Lessee shall exercise such purchase right by delivery to the Owner-Trustee of a written notice specifying a date of purchase, which date shall not be later than the later of (i) 15 days after the date of delivery of such notice by the Lessee to the Owner-Trustee or (ii) 45 days after the Expiration Date. In the event that the Lessee shall have delivered a notice of its election to purchase the Units, this Lease (including the obligation to pay rent) shall be further extended or renewed upon the same terms and conditions set forth herein from the Expiration Date or the date such notice is delivered, as the case may be, to the Owner-Trustee until the date of such purchase.

§ 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease the Lessee will, at its own cost and expense, except as hereinafter provided, at the request of the Owner-Trustee, cause each Unit to be transported to such point or points as shall be designated by the Owner-Trustee immediately prior to such termination and arrange for the Owner-Trustee to store such Unit on any lines of railroad or premises approved by the Owner-Trustee for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 120 days from the date at which at least 95% of such Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee; provided, however, that if the lines designated by the Owner-Trustee for such storage are lines other than the lines of the Lessee, the cost of so using such lines shall be at the expense of the Owner-Trustee. During any such storage period the Lessee will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable for any injury to or the death of any person exercising, either on behalf of the Owner-Trustee or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents and except to the extent otherwise provided by law. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having

jurisdiction in the premises, the Owner-Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Owner-Trustee pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Owner-Trustee pursuant to § 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such § 9 and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. If any Unit suffers a Casualty Occurrence during any period prior to its return to the Owner-Trustee as provided for in this § 14 or during any storage period provided for in this § 14, the Lessee shall pay to the Owner-Trustee the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of the term of this Lease as to such Unit, belong to and be the property of the Owner-Trustee. In the event that by the 120th day after the termination of the original or any extended term of this Lease the Lessee has not, at the request of the Owner-Trustee, caused at least 95% of the Units to be transported to such point or points as shall have been designated by the Owner-Trustee pursuant to this § 14, the Lessee shall pay to the Owner-Trustee the per diem interchange multiplied by the number of Units equal to the difference between 95% of such Units and the number of Units previously delivered pursuant to this § 14 (such number to be determined on each day) for each day from such 120th day to the date on which at least 95% of the Units have been so transported. If, after the termination of the storage period provided in this § 14, any Units have not been so transported, the Lessee shall pay to the Owner-Trustee the per diem interchange for each Unit not so transported for each day after the end of such storage period until such Unit or Units have been so transported; provided, however, that if any Unit has not suffered a Casualty Occurrence prior to the first anniversary of the termination of this Lease and has not been so transported within one year after the termination of the term of this Lease, such Unit shall be deemed to have suffered a Casualty Occurrence and the Lessee shall pay or cause to be paid to the Owner-Trustee, on the 10th day after the expiration of such year, an amount equal to the

greater of (x) the Casualty Value of such Unit as of such payment date or (y) the Fair Market Value of such Unit as of the date this Lease terminated and assuming such Unit had not experienced a Casualty Occurrence and was then in the condition required to be maintained by the terms of this Lease. If, after 10 days from the expiration of such year, the Owner-Trustee and the Lessee are unable to agree upon a determination of the Fair Market Value of any such Unit, such value shall be determined in accordance with the appraisal procedure specified in the fourth paragraph of § 13 hereof and payment of such amount shall be made on the fifth business day following the determination of such Fair Market Value. "Fair Market Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing buyer (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell.

Upon the expiration of the original term of this Lease on September 28, 1994, if the Lessee has not elected to exercise the renewal options provided by the first and second paragraphs of § 13 hereof, the Lessee will deliver to the Owner-Trustee a certificate of an officer of the Lessee to the effect that (a) no Event of Default or event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of September 28, 1994; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Owner-Trustee or the Owner) were, as of September 28, 1994, imposed on or with respect to any Unit, any accession thereto, or the interest of the Owner-Trustee or the Owner therein; (c) the Units have been returned to the Owner-Trustee pursuant to this § 14 in the same operating order, repair and condition required by the first paragraph of this § 14; and (d) the Lessee no longer has any interest in the Units under the Lease or otherwise. If a certificate of an officer of the Lessee is required to be furnished pursuant to the preceding sentence, the certificate described in clause (a) in the preceding sentence shall be furnished on September 28, 1994, and the certificates described in clauses (b), (c) and (d) in the preceding sentence, in addition to being furnished on September 28, 1994, shall be furnished on a monthly basis, beginning on the next ensuing month, and such certificates shall cover each Unit returned during the preceding 30 calendar days and shall apply to each such Unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this § 14. Upon the expiration of any

extended term of this Lease, if the Lessee shall not have elected to exercise any further renewal option or if the Lessee shall have no such further renewal option, the Lessee shall deliver to the Owner-Trustee a certificate or certificates of an officer of the Lessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the Security Document, the Lease Assignment, any sublease permitted by § 12 hereof (including the required assignment and reassignment thereof), and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Owner-Trustee under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Owner-Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Owner-Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Document or the Lease Assignment.

§ 16. Additional Opinions. The Lessee will promptly furnish to the Vendor and the Owner-Trustee evidence of every filing, registering, depositing or recording required pursuant to § 15 hereof, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Owner-Trustee. This Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 17. Obligations of Owner-Trustee Under Security Document; Additional Rentals. In the event that the Owner-Trustee shall become obligated to make any payment (other than payments in settlement for Equipment or the principal of or interest on the CSA Indebtedness (as defined therein) pursuant to the Security Document and pursuant to the proviso to the third paragraph of Article 12 thereof) or to perform any obligations pursuant to the Security Document not covered by the provisions of this Lease, the Lessee shall pay such

additional rentals hereunder and perform such obligations so that all of the Owner-Trustee's obligations (other than as aforesaid) pursuant to the Security Document shall be fully complied with, without regard for any limitation of liability of the Owner-Trustee contained in the Security Document.

§ 18. Owner-Trustee's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein, the Owner-Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Owner-Trustee incurred in connection with such performance or compliance, together with interest on such amount at the greater of (i) 11.50% per annum or (ii) the prime rate of interest which The Chase Manhattan Bank (National Association) charges at the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing (or such lesser amount as may be legally enforceable), shall be payable by the Lessee upon demand.

§ 19. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to the greater of (i) interest at the rate of 11.50% per annum or (ii) the prime rate of interest which The Chase Manhattan Bank (National Association) charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing, on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 20. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when delivered to such other party or by registered or certified mail, postage prepaid, addressed as follows:

if to the Owner-Trustee, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Division;

if to the Lessee, 710 N. Twelfth Boulevard (P. O. Box 7282), St. Louis, Missouri 63177;

if to the Owner, at West 80 Century Road, Paramus, New Jersey 07652, Attention of Vice President-Finance;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party. Any notice to the Lessee by the Vendor or the Investors regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Owner-Trustee.

§ 21. Owner-Trustee Acting as Trustee. The representations, undertakings and agreements herein made on the part of the Owner-Trustee are made and intended for the purpose of binding only the Trust Estate as such term is defined in the Trust Agreement.

Whenever the term Owner-Trustee is used in this Lease it shall apply and refer to the Owner-Trustee and any assignee of the Owner-Trustee.

§ 22. No Recourse. No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Owner-Trustee, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, as such, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by the Owner-Trustee, or for the purpose or with the intention of binding the Owner-Trustee personally but are made and intended for the purpose of binding only the Trust Estate and this Agreement is executed and delivered by the Owner-Trustee solely in the exercise of the powers expressly conferred upon

the Owner-Trustee as Owner-Trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Owner-Trustee or the Owner on account of any representation, undertaking or agreement hereunder of the Owner-Trustee or the Owner, either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 of the Security Document and subparagraph (a) of the third paragraph of Article 4 of the Security Document; all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee; provided, however, that the Lessee or any person claiming by, through or under the Lessee making claim hereunder, may look to said Trust Estate for satisfaction of the same.

§ 23. Federal Income Taxes. This Lease has been entered into on the basis that an opinion of the chief mechanical officer of the Lessee to the effect described in subsection (iv) of Paragraph 8 of the Participation Agreement will be provided to the Owner; that the Owner, as the beneficial owner of each Unit, shall be entitled to such deductions, credits and other benefits provided by the Code to an owner of property, including, without limitation, (a) deductions for depreciation of each Unit under section 167 of the Code computed on the basis (i) that each Unit will have a basis under section 167(g) of the Code at least equivalent to the Purchase Price of such Unit, (ii) initially of the declining balance method, using a rate equal to 200% of the straight line rate, switching to the sum of the years-digits method authorized by section 167(b)(3) of the Code in the year in which such switch will result in a greater depreciation deduction than would be available under the declining balance method, without obtaining the consent of the Commissioner of Internal Revenue in accordance with Treasury Regulation § 167(a)-11(c)(1)(iii), (iii) of the asset depreciation range and class life system permitted by section 167(m) of the Code and Treasury Regulation § 1.167(a)-11, (iv) of an asset depreciation period of 12 years, (v) of a net salvage value of zero after the reduction permitted by section 167(f) of the Code and (vi) that the Units of Equipment shall be treated as having been placed in service on the respective dates on which they are accepted and delivered under this Lease and the Security Document (hereinafter called the ADR Deductions), (b) deductions with respect to interest payable on the CSA Indebtedness (hereinafter called the Interest Deductions), and (c) investment credit

pursuant to section 38 of the Code at least equal to 10% of the aggregate Purchase Price of such Unit (hereinafter called the Investment Credit). This Lease has also been entered into on the assumption that (1) for Federal income tax purposes all amounts includible in the gross income of the Owner with respect to the Equipment and all deductions allowable to the Owner with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States, (2) for purposes of computing the ADR Deductions with respect to the Equipment for the calendar year in which the Units of Equipment were first placed in service, the Owner will be entitled to elect and will elect the half-year convention and (3) the Federal rate of tax imposed on taxable income of corporations in excess of \$100,000 will be 46% through the date of acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing.

The Lessee agrees to use its best efforts to maintain sufficient records to verify the amount of income and deductions in respect of each Unit of Equipment allocable to sources within and without the United States. The Lessee agrees to give the Owner, within 60 days after request therefor, written notice describing the amount of income and deductions allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner. In addition, within 90 days after the end of each calendar year, beginning with the year 1979, the Lessee agrees to furnish to the Owner a statement to the effect that none of the Equipment has been used outside of the United States other than in Canada or Mexico on a temporary basis not exceeding 90 days during the preceding calendar year, or if any of the Equipment was used outside the United States during such year, giving the appropriate details of any such use, which statement shall be signed by the chief financial officer of the Lessee.

The Lessee represents and warrants that (i) all of the Units constitute property the entire Purchase Price of

which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Owner-Trustee becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of section 48(b) of the Code and at the time the Owner-Trustee becomes the owner of the Units, the Units will not have been used or placed in service by any person so as to preclude "the original use of such property" within the meaning of sections 48(b) and 167(c)(2) of the Code from commencing with the Owner-Trustee; (iii) at all times during the original term of this Lease and all renewal terms, each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code; and (iv) at all times during the original term of this Lease and the renewal periods, the Owner will be entitled to treat, for Federal income tax purposes, each item of income, deduction and credit relating to all Units subject to this Lease as being derived from, or allocable to, sources within the United States.

If, for Federal income tax purposes, as a result of any reason whatsoever, but excluding any of the specific occurrences or events specified in the ninth paragraph of this § 23, (a) the Owner shall not be entitled to, shall suffer a disallowance or recapture of, shall lose the benefit of, or shall lose the right to claim (including a good faith determination based upon the opinion, to be obtained at the cost of the Lessee, of independent tax counsel of the Owner approved by the Lessee ("Special Tax Counsel"), which approval shall not be unreasonably withheld, that such claim is not allowable), all or any portion of the Investment Credit, the ADR Deductions or the Interest Deductions or (b) any item of income, deduction or credit with respect to the Equipment shall not be treated as derived from, or allocable to, sources within the United States (any such event described in clause (a) or (b) of this paragraph being hereinafter called a Loss), then the Lessee, at its option, after receiving written notice from the Owner of such Loss together with a certificate of an officer of the Owner setting forth in reasonable detail the computations and methods used in calculating such Loss and the amount or amounts of the payments required to be made pursuant to clause (i) or (ii) below (such notice and certificate being hereinafter collectively called the Net Economic Return Notice), shall either (i) commencing with the next rental payment date occurring more than 30 days after receipt by the Lessee of the Net Economic Return Notice, which Net Economic Return Notice may not be delivered more than 30

days prior to payment by the Owner of the tax which becomes due as a result of the Loss, increase the rental payments under this Lease over its remaining term by an amount as shall cause the Owner's Net Economic Return (as defined in § 3 of this Lease) to equal the Net Economic Return that would have been realized by the Owner if such Loss had not occurred, such increase in the rental payments to be made directly to the Owner, or (ii) within 30 days of receipt of the Net Economic Return Notice, pay to the Owner in lump sum the amount as shall, in the reasonable opinion of the Owner, be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred. If the option under (ii) above is selected, then to the extent any Loss results in a later benefit to the Owner which has not been taken into account in determining the lump-sum payment, payment will be made to the Lessee at the time such benefit is realized; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Owner pursuant to the option specified in (ii) above in respect of a Loss less (y) the amount of all prior payments by the Owner to the Lessee hereunder, and the amount by which such payment would exceed such amounts shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the option specified in (ii) above. The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions as were utilized by the Owner in originally evaluating the transaction except for the assumption that has resulted in such adjustments.

In the event that the Owner suffers a Loss and the Owner and the Lessee are unable to agree, within 60 days following the Lessee's receipt of a Net Economic Return Notice, on the indemnity amounts or amounts required to restore the Owner's Net Economic Return, then the Lessee shall pay in a lump sum within 30 days after expiration of said 60-day period, such amount as shall, in the reasonable opinion of the Owner (regardless of whether the Lessee agrees therewith) be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred.

If there is any amendment to, or change in, the Code or any regulation thereunder which is effective on or

prior to the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease, and if such amendment or change affects the privilege of the Owner to file consolidated Federal, state and local income tax returns with corporations affiliated with it, or the Federal rate of tax on the taxable income of corporations, then the amounts of rentals and the Casualty Values under this Lease will be appropriately adjusted by such amount or amounts as shall, in the reasonable opinion of the Owner, cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such amendment or change had not occurred; provided, however, that the rentals and Casualty Values, as so adjusted, shall not be less than amounts sufficient to satisfy the obligations of the Owner-Trustee under the Security Document.

Any late payment by any party hereto of any of its obligations under this § 23 shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% in excess of the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which The Chase Manhattan Bank (National Association), New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

Notwithstanding anything to the contrary set forth hereinabove, no amount shall be payable as an indemnity hereunder to the Owner in respect of any Loss to the extent such Loss is the result of any of the following on the part of the Owner:

(i) a voluntary transfer or voluntary disposition (whether prior to, during or after the term of this Lease, but not including a transfer or disposition as a result of a Casualty Occurrence) of any Units or of the interest of the Owner in any Units or the rentals under this Lease, or any transfer or disposition of any Units or of the interest of the Owner in any Units or the rentals under this Lease, whether voluntary or involuntary, which results from bankruptcy or other proceedings for the relief of debtors in which the Owner is the debtor, unless, in each case, such transfer or disposition is made (A) after an Event of Default, as defined in § 10 of this Lease, has occurred and is continuing; (B) in

connection with any alteration, modification or addition to any Unit; or (C) with the consent of the Lessee;

(ii) the failure of the Owner to claim in a timely manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the applicable Income Tax Regulations), the Interest Deductions or any foreign tax credit or to make a timely election, if permitted by the Code, to treat income and deductions with respect to the Equipment as derived from, or allocable to, sources within the United States, unless Special Tax Counsel of the Owner shall have given its opinion to the Owner that such claim is not allowable;

(iii) the failure of the Owner to have sufficient liability for Federal income tax against which to credit Investment Credit or foreign tax credit or sufficient income to benefit from the ADR Deductions or the Interest Deductions, as applicable;

(iv) any residual sharing, guarantee agreement or other voluntary act of the Owner (either individually or in concert with others) which is not included in the foregoing clauses and which is not required or contemplated by the Security Document, the Participation Agreement, the Trust Agreement, this Lease, the Lease Assignment, the Consent, the Assignment or any other document contemplated by any of the foregoing or entered into in connection therewith;

(v) a change in the form or type of organization or the taxable status of the Owner or any successor or transferee of the Owner;

(vi) a Casualty Occurrence with respect to a Unit, if the Owner-Trustee shall have received all amounts required to be paid in respect of such Casualty Occurrence under this Lease; or

(vii) any amendment to, or change in, the Code or the Income Tax Regulations which is effective after the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

If at the conclusion of an audit the Owner receives a preliminary or "30-day" letter from the Internal Revenue

Service proposing an adjustment in any item claimed in accordance with the fifth paragraph of this § 23 on a tax return or refund claim of the Owner for which the Lessee would be required to indemnify the Owner pursuant to this § 23 and the amount of the indemnity which the Lessee would be required to pay would exceed \$100,000 or, in the good faith of the Lessee, the adjustment would have a substantial and continuing precedential adverse effect on the Lessee or the railroad industry and the Lessee so advises the Owner in writing, then, if requested by the Lessee in a timely written request, the Owner shall request an opinion from Special Tax Counsel of the Owner as to whether the basis in law and in fact in favor of allowance of the item proposed to be adjusted outweighs the basis in law and in fact to the contrary. If the opinion is to that effect and if the Lessee promptly requests the Owner to do so, the Owner shall contest the proposed adjustment; provided, however, that Special Tax Counsel of the Owner shall determine the nature of all action to be taken to contest such proposed adjustment including (A) whether any action to contest such proposed adjustment shall initially be by way of judicial or administrative proceedings, or both, (B) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof, and (C) if the Owner shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced. The Owner shall have full control over any contest pursuant to this paragraph and shall not be obligated to appeal an adverse determination by any court if the Owner shall have obtained an opinion from its Special Tax Counsel that the basis in law and in fact in favor of a favorable outcome in the event such determination is appealed outweighs the basis in law and in fact to the contrary. At any time, whether before or after commencing to take the action set forth in this paragraph, the Owner may decline to take such action by notifying the Lessee in writing that the Lessee is relieved of its obligation to indemnify the Owner with respect to the adjustment proposed by the Internal Revenue Service or such portion thereof as may be specified in such notice.

The Owner shall not be required to take any action pursuant to the preceding paragraph unless and until the Lessee shall have agreed to indemnify the Owner in a manner reasonably satisfactory to the Owner for any liability or loss which the Owner may incur as a result of contesting the validity of any proposed adjustment and shall have agreed to

pay to the Owner on demand all costs and expenses which the Owner may incur in connection with contesting such proposed adjustment (including reasonable fees and disbursements of counsel selected by the Owner). If the Owner determines to contest any adjustment by paying the additional tax and suing for a refund, the Lessee shall pay to the Owner an amount equal to the sum on an after-tax basis of any tax, interest, penalties and additions to tax which are required to be paid. Upon receipt by the Owner of a refund of any amounts paid by it based on the adjustment in respect of which amounts it shall have been paid an equivalent amount by the Lessee, the Owner shall pay to the Lessee the amount of such refund together with any interest received by it on such amount, and if such refund is not taxable income to the Owner, and if payment under this or the preceding paragraph to the Lessee is deductible by the Owner for Federal income tax purposes, then the Owner shall also pay to the Lessee the amount by which the Owner's taxes are reduced as the result of such deduction; provided, however, that in no event shall the total amount paid to the Lessee pursuant to this or the preceding paragraph with respect to a particular refund exceed the amount paid by the Lessee to the Owner in connection with the payments made pursuant to the immediately preceding sentence to which such refund relates.

For purposes of this § 23, the term "Owner" shall include any affiliated group, within the meaning of Section 1504 of the Code, of which the Owner is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

If the Owner is required by the Internal Revenue Service to include in its gross income an amount in respect of any improvement and/or addition to such Unit of Equipment made by the Lessee, title to which vests in the Owner or the Owner-Trustee (which amounts are hereinafter called Capital Expenditures), then the Lessee shall pay directly to the Owner, as an indemnity, in immediately available funds, such amount or amounts which, after deduction of all taxes required to be paid by the Owner in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Owner from time to time as a result of such Capital Expenditure plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditure (less any Federal,

state or local tax benefits resulting from payment of any amounts reimbursed hereunder). If as a result of any such Capital Expenditure the aggregate Federal, state or local income taxes paid by the Owner for any taxable year shall be less than the amount of such taxes which would have been payable by the Owner had no such Capital Expenditure been made, then the Owner shall pay the Lessee the amount of such savings in taxes plus any additional tax benefits realized by the Owner as a result of such payment; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Owner pursuant to this paragraph in respect of any Capital Expenditures less (y) the amount of all prior payments by the Owner to the Lessee hereunder, and the amount by which such payment would exceed such amount shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the first sentence of this paragraph. The amount payable to the Owner pursuant to this paragraph shall be paid within 30 days after receipt of the written demand therefor from the Owner (but not prior to payment by the Owner of the additional Federal, state or local income tax, as the case may be, which becomes due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Lessee from the Owner pursuant to this paragraph shall be paid within 30 days after the Owner realizes any such savings in its income taxes or additional tax benefits, as the case may be. The Owner agrees to contest the inclusion in its gross income of any amount with respect to a Capital Expenditure to the extent, and under the circumstances, set forth in the ninth and tenth paragraphs of this § 23.

The Lessee agrees to give the Owner, within 30 days after request therefor, written notice describing in reasonable detail Capital Expenditures made and specifying the cost thereof with respect to each Unit of Equipment if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner.

In the event that any indemnity payments are required to be made by the Lessee, or in the event the amount of rentals under this Lease are adjusted, pursuant to any paragraph of this § 23, the damages and amounts set forth in § 10 of this Lease and the applicable Casualty Value percent-

ages set forth in Schedule B to this Lease shall be appropriately adjusted by the Owner (but in no event shall the applicable Casualty Values be reduced below the corresponding Fair Values as defined in the Security Document). The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions, including, without limitation, tax rates, as were utilized by the Owner in originally evaluating this transaction except for the assumption that has resulted in such adjustment. In connection therewith, the Owner shall provide the Lessee with a certificate of an officer of the Owner setting forth in reasonable detail the figures and methods used in making such calculations. In the case of any such adjustments in the damages and amounts set forth in § 10 of this Lease and the applicable Casualty Value percentages set forth in Schedule B to this Lease, if any payment of such damages, amounts or Casualty Values shall have been made prior to the adjustments made pursuant to this paragraph, (a) the Lessee shall pay to the Owner the excess amount which would have been payable on the due date of such payment by reason of the adjustments pursuant to this paragraph or (b) the Owner shall pay to the Lessee the amount of such payments in excess of the amount of such payments which would have been payable by reason of the adjustments pursuant to this paragraph. The Lessee's and the Owner's agreements to pay any sums which may become payable pursuant to this § 23 shall survive the expiration or other termination of this Lease.

The Lessee shall have the right, upon demand, to have Thayer, Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, or another independent party selected by the Lessee and approved by the Owner, which approval shall not be unreasonably withheld, review any calculations made by the Owner pursuant to this § 23 to determine the consistency of the methods and the assumptions used in such calculations with those used by the Owner in originally evaluating this transaction and the accuracy of such computations based on such methods and assumptions.

The liability of the Lessee to make indemnification payments pursuant to this § 23 shall, notwithstanding any expiration or termination of this Lease, continue to exist until such indemnity payments are made by the Lessee. All indemnity payments under this § 23 shall be made directly to the Owner.

§ 24. Severability; Effect and Modification of Lease; Third Party Beneficiaries. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof; and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Owner-Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Owner-Trustee and the Lessee.

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owner, the Builder, the Vendor, the Investors and the permitted successors and assigns of a party, each of which shall be deemed to be a third-party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

§ 25. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 26. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. Agreement for Benefit of the Owner. All rights of the Owner-Trustee hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 10 and 23, and the

right to receive the rentals payable under this Lease) shall inure to the benefit of the Owner and any of the Owner's permitted successors and assigns under the Trust Agreement.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

ILLINOIS TERMINAL RAILROAD COMPANY,

by

[CORPORATE SEAL]

Vice President

Attest:

Secretary

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by

[CORPORATE SEAL]

Authorized Officer

Attest:

Authorized Officer

STATE OF MISSOURI,)
) ss.:
CITY OF ST. LOUIS,)

On this day of September 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is of ILLINOIS TERMINAL RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission Expires

[illegible]

On this day of September 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission Expires

Schedule A

<u>Type</u>	<u>Quantity</u>	<u>Road Numbers (Inclusive)</u>
50-foot, 6-inch 70-ton, Class XM boxcar	200	ITC 8000 through 8199

SCHEDULE B to LEASE

Casualty Values*

Item I:	<u>No.</u>	<u>Rental Payment Date**</u>	<u>Percentage of Purchase Price</u>
	1	March 1980	86.620743
	2	September 1980	87.359553
	3	March 1981	87.205392
	4	September 1981	87.241588
	5	March 1982	87.113672
	6	September 1982	86.746962
	7	March 1983	86.120378
	8	September 1983	85.245966
	9	March 1984	84.115593
	10	September 1984	82.757691
	11	March 1985	81.157468
	12	September 1985	79.353369
	13	March 1986	77.323922
	14	September 1986	75.123895
	15	March 1987	72.781931
	16	September 1987	71.317014
	17	March 1988	67.722688
	18	September 1988	64.992161
	19	March 1989	62.118280
	20	September 1989	59.129700
	21	March 1990	55.995776
	22	September 1990	52.776911
	23	March 1991	49.421456
	24	September 1991	45.989496
	25	March 1992	42.389300
	26	September 1992	38.641732
	27	March 1993	35.103778
	28	September 1993	31.649815
	29	March 1994	28.220170
	30	September 1994	24.889123
	31	March 1995	23.985010
	32	September 1995	23.115405
	33	March 1996	22.242726
	34	September 1996	21.314263
	35	March 1997	20.803914
	36	September 1997	20.000000

* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 28th day of the month set forth.

Item II:	Anniversary of Delivery and <u>Acceptance</u>	<u>Percentage of Purchase Price</u>
	Third	19.51923
	Fifth	13.012821
	Seventh	6.50641

[CS&M 5237-009]

ASSIGNMENT OF LEASE

Dated as of August 20, 1979

between

FIRST SECURITY STATE BANK,
not in its individual capacity but solely as Owner-Trustee for
Ingersoll-Rand Financial Corporation,

and

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity but solely as agent under the
Participation Agreement dated as of the date hereof,

as Agent.

ASSIGNMENT OF LEASE AND AGREEMENT dated as of August 20, 1979, by and between FIRST SECURITY STATE BANK, not in its individual capacity but solely as Trustee (herein after, together with its successors and permitted assigns, called the "Owner-Trustee") under a Trust Agreement dated as of the date hereof with INGERSOLL-RAND FINANCIAL CORPORATION (the "Owner"), and FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as agent (the "Agent") for certain institutional investors (the "Investors") under a Participation Agreement dated as of the date hereof with the Owner-Trustee, the Owner, the Investors and ILLINOIS TERMINAL RAILROAD COMPANY (together with its successors and permitted assigns hereinafter called the "Lessee").

The Owner-Trustee is entering into a Conditional Sale Agreement dated as of the date hereof (the "Security Document") with Pullman Incorporated (Pullman Standard Division) (the "Builder"), providing for the sale to the Owner-Trustee of such units of railroad equipment (the "Units") described in the Annex B thereto as are delivered to and accepted by the Owner-Trustee thereunder and the Security Document is being assigned to the Agent by the Builder.

The Owner-Trustee and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease"), providing for the leasing by the Owner-Trustee to the Lessee of the Units.

In order to provide security for the obligations of the Owner-Trustee under the Security Document and as an inducement to the Investors to invest in the CSA Indebtedness (as defined in the Security Document), the Owner-Trustee agrees to assign for security purposes its rights in, to and under the Leases to the Agent.

NOW, THEREFORE, in consideration of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 10 hereof, the Owner-Trustee hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment

and performance of the Owner-Trustee's obligations under the Security Document, all the Owner-Trustee's right, title and interest, powers, privileges and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Owner-Trustee from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Owner-Trustee is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Owner-Trustee hereby irrevocably authorizes and empowers the Agent in its own name, or in the name of its nominee, or in the name of the Owner-Trustee or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Owner-Trustee is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof. Notwithstanding the foregoing, Payments shall not be deemed to include, either before or after an Event of Default shall have occurred and be continuing under the Lease or event of default shall have occurred and be continuing under the Security Document, payments by the Lessee to the Owner-Trustee or the Owner pursuant to § 6, 9 or 23 of the Lease (except to the extent and in the event any of such payments discharges a corresponding obligation of the Lessor to the Vendor under Article 6 or 13 of the CSA) but no payments otherwise excluded from this Assignment pursuant to this sentence may be made to or retained by the Owner-Trustee or the Owner out of the proceeds of the sale or other disposition of the Units unless and until full payment of principal of and interest on the CSA Indebtedness shall have been made.

The Agent agrees to accept for the account of the Owner-Trustee any Payments made by the Lessee pursuant to the Lease. To the extent received, the Agent will apply such Payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement and, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Document could constitute an event of default thereunder shall have occurred and be continuing, any balance shall be paid to the Owner-Trustee on the same date such Payment is applied to satisfy

such obligations of the Owner-Trustee, by bank wire transfer of immediately available funds to the Owner-Trustee at such address as may be specified to the Agent in writing. If the Agent shall not receive any rental payment under the first paragraph of § 3 of the Lease or any payment of Casualty Values under § 7 of the Lease when due, the Agent shall promptly notify the Owner-Trustee and the Owner by telegraphic communication or by telephone followed by certified mail at the address set forth in the Participation Agreement. Failure to so notify the Owner-Trustee or the Owner shall not affect the rights and remedies of the Agent hereunder or under the Security Document except as expressly provided in paragraphs (a) and (f) of Article 15 thereof.

2. This Assignment is executed only as security for the obligations of the Owner-Trustee under the Security Document and, therefore, the execution and delivery of this Assignment shall not subject the Agent to, or transfer, or pass, or in any way affect or modify the liability of the Owner-Trustee under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Owner-Trustee under the Lease shall be and remain enforceable by the Lessee, and its successors and assigns, against, and only against, the Owner-Trustee.

3. To protect the security afforded by this Assignment, subject to the provisions of Paragraph 10 hereof, the Owner-Trustee agrees as follows:

(a) The Owner-Trustee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Owner-Trustee; without the written consent of the Agent, the Owner-Trustee will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee which are intended to satisfy the obligations of the Owner-Trustee under the Security Document, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement so amending, modifying or terminating the Lease and the Owner-Trustee agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Owner-Trustee fail to make any payment or to do any act which this Assignment requires the Owner-Trustee to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Owner-Trustee and affording the Owner-Trustee a reasonable period of time within which to make such payment or do such act, but without releasing the Owner-Trustee from any obligation hereunder, may make or do the same in such manner and to such extent as the Agent may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Agent, and also the right to perform and discharge each and every obligation, covenant and agreement of the Owner-Trustee contained in the Lease; and in exercising any such powers, the Agent may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Owner-Trustee will reimburse the Agent for such costs, expenses and fees; provided, however, that the obligations of the Owner-Trustee to make reimbursements under this Paragraph 3 are subject to the last paragraph of Article 4 of the Security Document.

4. Subject to the provisions of Paragraph 10 hereof, the Owner-Trustee does hereby constitute the Agent the Owner-Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Owner-Trustee, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Owner-Trustee is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Agent may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Owner-Trustee's obligations under the Security Document and Participation Agreement, this Assignment and all rights herein assigned to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Owner-Trustee without further act or deed, but the Agent shall execute and deliver such docu-

ments as the Owner-Trustee may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Owner-Trustee will, from time to time, do and perform any other act and will execute, acknowledge, and deliver any and all further instruments required by law or reasonably requested by the Agent in order to confirm or further assure the interests of the Agent hereunder.

7. The Agent may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder. The Agent will give written notice to the Owner-Trustee and the Lessee of any such assignment.

8. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Owner-Trustee shall cause copies of all notices received in connection with the Lease and all payments thereunder to be promptly delivered or made to the Agent at its address set forth in Article 20 of the Security Document, or at such other address as the Agent shall designate.

10. The Agent hereby agrees with the Owner-Trustee that (i) so long as no event of default, or any event which with lapse of time or notice or both would constitute such an event of default, under the Security Document has occurred and is then continuing, the Agent will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Owner-Trustee to the Agent by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that (ii) subject to the terms of the Lease and the Security Document, the Owner-Trustee may, so long as no event of default or event which with notice or lapse of time or both would constitute such an event of default under the Security Document has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges, and remedies arising out of

subparagraph (a) of the first paragraph of § 10 of the Lease; provided, however, the Owner-Trustee shall not, without the prior written consent of the Agent, terminate any Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of subparagraph (b) of said § 10.

11. No recourse shall be had in respect of any obligation due under this Assignment, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Owner-Trustee, the Agent, any Investor or the Owner, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, as such, or beneficiaries being forever released as a condition of and as consideration for the execution of this Assignment.

12. It is agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by the Owner-Trustee, or for the purpose or with the intention of binding the Owner-Trustee personally but are made and intended for the purpose of binding only the Trust Estate (as defined in the Trust Agreement) and this Assignment is executed and delivered by the Owner-Trustee solely in the exercise of the powers expressly conferred upon the Owner-Trustee as Owner-Trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Owner-Trustee or the Owner on account of any representation, undertaking or agreement hereunder of the Owner-Trustee, or the Owner, either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 of the Security Document and subparagraph (a) of the third paragraph of Article 4 of the Security Document; all such personal liability, if any, being expressly waived and released by the Agent and by all persons claiming by, through or under the Agent; provided, however, that the Agent or any person claiming by, through or under the Agent, making claim hereunder, may look to said Trust Estate for satisfac-

tion of the same.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names, by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by

[CORPORATE SEAL]

Authorized Officer

Attest:

Authorized Officer

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity,
but solely as Agent,

by

[SEAL]

Authorized Officer

Attest:

Authorized Officer

STATE OF UTAH,)
) ss.:
 COUNTY OF SALT LAKE,)

On this day of September 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[NOTARIAL SEAL]

My Commission Expires

STATE OF UTAH,)
) ss.:
 COUNTY OF SALT LAKE,)

On this day of September 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its By-laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Notary Public

[NOTARIAL SEAL]

My Commission Expires

CONSENT AND AGREEMENT

The undersigned, ILLINOIS TERMINAL RAILROAD COMPANY (the "Lessee"), the Lessee named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease (the "Lease Assignment"), hereby acknowledges receipt of a copy of the Lease Assignment, consents to all the terms and conditions of the Lease Assignment and agrees:

(1) subject to the terms and conditions of the Lease Assignment, to pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease and assigned to the Agent by the Lease Assignment (which moneys are hereinafter called the "Payments") due and to become due to First Security State Bank, not in its individual capacity, but solely as Owner-Trustee for Ingersoll-Rand Financial Corporation (the "Owner-Trustee") under the Lease in respect of the Units leased thereunder, directly to the First Security Bank of Utah, N.A., as agent (the "Agent") under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) subject to the terms and conditions of the Lease Assignment, that the Agent shall be entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by the undersigned under the Lease as though the Agent were named therein as the Owner-Trustee;

(3) that the Agent shall not, by virtue of the Lease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise;

(4) that the Lease shall not, without the prior written consent of the Agent, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the obligations of the undersigned under the Lease which are intended to

satisfy the obligations of the Owner-Trustee under the Security Document, the obligations of the Owner-Trustee under the Lease Assignment or the obligations of the undersigned under this Consent and Agreement or of any of the rights created by any thereof; and

(5) that it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Security Document and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Missouri and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of August 20, 1979

ILLINOIS TERMINAL RAILROAD
COMPANY,

by

[CORPORATE SEAL]

Vice President

Attest:

Secretary

Accepted:

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity,
but solely as agent under the
Participation Agreement referred
to above,

[SEAL]

Attest:

by

Authorized Officer

Authorized Officer